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UNION OF SOUTH AFRICA.

CORRESPONDENCE

RELATING TO THE

IMMIGRANTS REGULATION ACT

AND

OTHER MATTERS AFFECTING ASIATICS
IN SOUTH AFRICA.

(In continuation of [Cd. 6940], July, 1913.)

Presented to both Houses of Parliament by Command of His Majesty.
December, 1913.



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T. FISHER UNWIN, LONDON, W.C.

1913.

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38	To the Governor-General.	—	November 6	Requests that the Anjuman Islam, Durban, and the Port Elizabeth British Indian Association may be informed that copies of the resolutions forwarded in Nos. 29 and 31 have been received, and copies sent to the Secretary of State for India.	48
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40	The Governor General.	(Extract)	October 22 (Rec. Nov. 11.)	Forwards correspondence which has passed between the Department of the Interior and Mr. Gandhi on the subject of the grievances of the Indian community in connection with the Immigration Act.	48
41	Ditto	(Extract)	October 23 (Rec. Nov. 11.)	Forwards, with observations thereon, various newspaper extracts; Mr. Gandhi has visited the Natal coalfields and induced a number of indentured Indians to strike work until the Government should promise to repeal the £3 tax during the next session of Parliament.	56
42	Ditto	—	October 23 (Rec. Nov. 11.)	Forwards a copy of a letter from the Chairman at a meeting of the Hamidia Islamic Society, enclosing copies of resolutions passed at the meeting protesting against General Smuts's statement respecting Mahomedan marriage and divorce; and observes that General Smuts has emphatically repudiated the expressions attributed to him.	58
43	Ditto	Telegram (Extract)	November 17 (Rec. Nov. 17.)	Reports that 2,000 Indians employed by the municipalities, railways, and boating companies at Durban have struck, and that General Lukin has asked for 200 mounted police; states that 50 have been sent and 50 will go to-day; states that, except for a fracas at the Mount Edgecombe sugar plantations, the Indians are generally quiet.	59
44	Ditto	—	October 30 (Rec. Nov. 18.)	Forwards a copy of a minute from Ministers observing, with reference to No. 30, that, had gross misrepresentations not been made to the Immigration Officers in the case of the woman Kulsum Bibi, it is unlikely that the matter would have been submitted to a Superior Court at all.	60
45	Ditto	—	October 30 (Rec. Nov. 18.)	Transmits a copy of a minute from Ministers stating, with reference to No. 18, that they can at present add nothing to their minute enclosed in No. 23.	60
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47	The Governor-General.	Telegram	(Rec. Nov. 18)	Transmits a message from the Natal Indian Association communicating resolutions of a mass meeting of Indians strongly condemning the action of the Government in arresting Messrs. Gandhi, Kallenbach, Polak, and others for their demonstration against the £3 tax, calling attention to the serious situation, and adding that prompt action by the Imperial and Indian Governments is necessary lest greater hardships ensue and many lives are lost.	65
48	India Office ...	—	November 18	Transmits copies of unofficial telegrams; expresses grave concern at the impression produced in India, and suggests the importance of obtaining, as soon as possible, an authoritative statement of the facts.	65
49	The Governor-General.	Telegram	November 19 (Rec. Nov. 19)	Reports that ten mine compounds in the Dundee district and one in the Newcastle district have been declared outstations to Dundee and Newcastle gaols because of lack of accommodation in the ordinary prisons; submits information as to the details of this arrangement; observes that there is no truth in the allegations as to ill-treatment of Indians; and adds that there will be no ill-treatment, and force will only be used to put down unprovoked violence by the strikers themselves.	66
50	To the Governor-General.	—	November 19	Requests, in reply to No. 42, that Mr. Gabru may be informed of the receipt of the resolutions, but that it is presumed he has since learned that General Smuts has emphatically repudiated the alleged remarks attributed to him.	66
51	The Governor-General.	Telegram (Extract).	(Rec. Nov. 20.)	States that the allegations of shooting, flogging, and coercing of Indians to work are absolutely false, and suggests that the Secretary of State may like to make a statement.	67
52	Ditto ...	Telegram	(Rec. Nov. 20.)	Furnishes details of sentences on Indian strikers, and observes that the policy adopted seems to have been successful in restoring orderly conditions without infliction of any serious hardship.	67
53	To the Governor-General.	Telegram	November 21	Presumes that the sentences of seven days referred to in No. 52 were imposed under Section 35 of Law 25 of 1891; and enquires what were the charges in the other cases with heavier penalties.	68
54	The Governor-General.	—	November 5 (Rec. Nov. 25.)	Forwards a copy of a minute from Ministers pointing out, with reference to the resolutions passed by the meet-	68

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55	The Governor-General.	Extract	November 6 (Rec. Nov. 25.)	Forwards, with detailed observations, a further batch of press extracts with reference mainly to the march of Indian strikers from the Natal coal-fields towards the Transvaal frontier.	68
56	London All-India Moslem League.	—	November 24	Invites attention to the gravity of the situation that has arisen in South Africa; and appeals to the Secretary of State to urge on the Union Government the necessity for the immediate introduction of remedial and ameliorative measures and to direct an investigation of the Indian grievances by an independent and representative body.	72
57	The Governor-General.	Telegram	(Rec. Nov. 26.)	Reports, in reply to No. 53, as to the sentences passed on various Indians arrested.	73
58	To the All-India Moslem League.	—	November 29	Observes that the Committee do not appear to be fully and accurately informed and that the open defiance of the law by Indians in South Africa seriously embarrasses the Secretary of State in the continuance of his representations to and consultation with the Government of the Union of South Africa.	74

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UNION OF SOUTH AFRICA.

CORRESPONDENCE

RELATING TO THE

IMMIGRANTS REGULATION ACT
AND OTHER MATTERS AFFECTING ASIATICS IN SOUTH AFRICA.

No. 1.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 6.6 p.m., 18th July, 1913.)

TELEGRAM.

[Answered by No. 7.]

I am requested to communicate to you following resolution passed by mass meeting held at Durban on June 29th :—

This mass meeting of the Indian community, convened under the auspices of the Natal Indian Congress, hereby place on record its disapprobation of the Immigrants Regulation Act* recently confirmed by His Excellency the Governor-General of the Union, and since the said Act deprives the domiciled Indians of their existing rights, and vests in the Minister autocratic powers, this meeting respectfully appeals to the Union and Imperial Government even at this eleventh hour, as it has done more than once previously during the passage of this Bill, to intervene for the protection of the rights and interests of British Indian subjects of the Crown and condemns the continuance of the £3 tax on ex-indentured Indians.†—GLADSTONE.

No. 2.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 2 August, 1913.)

SIR,

Governor-General's Office, Pretoria, 8 July, 1913.

I HAVE the honour to transmit to you herewith the documents mentioned below, on the subject of the Immigrants Regulation Act, 1913.

2. In each case I caused the sender of the telegram to be informed that I had already assented to the Act.

I have, &c.,
GLADSTONE,
Governor-General.

SCHEDULE OF ENCLOSURES.

17th June. Telegram from Zoroastrian Anjuman, Durban.
 17th June. Telegram from Kathiawar Agya Mandard, Durban.
 17th June. Telegram from Chairman, Colonial-Born Indian Association, Durban.
 17th June. Telegram from Anjuman Eshaatul Islam, Durban.
 17th June. Telegram from Anjuman Islam, Durban.

Enclosure 1 in No. 2.

TELEGRAM FROM ZORASTRIAN ANJUMAN, DURBAN, to PRIVATE SECRETARY TO LORD GLADSTONE.

17th June, 1913. Urgently respectfully request His Excellency withhold sanction Immigration Bill pending representations. Parsee Rustomjee, Chairman, 100, Field Street.

Enclosure 2 in No. 2.

TELEGRAM FROM KATHIAWAR AGYA MANDARD, DURBAN, to PRIVATE SECRETARY TO LORD GLADSTONE.

17th June, 1913. Urgently respectfully request His Excellency withhold sanction Immigration Bill pending representations. Dershi, Chairman, 52, Prince Edward Street.

Enclosure 3 in No. 2.

TELEGRAM FROM K. R. NAYANAH, CHAIRMAN, COLONIAL-BORN INDIAN ASSOCIATION, DURBAN, to PRIVATE SECRETARY TO LORD GLADSTONE.

17th June, 1913. Urgently respectfully request His Excellency withhold sanction Immigration Bill pending representations. Osman Ahmed, Chairman.

Enclosure 4 in No. 2.

TELEGRAM FROM ANJUMAN ESHAATUL ISLAM, BOX 97, DURBAN, to PRIVATE SECRETARY TO LORD GLADSTONE.

17th June, 1913. Urgently respectfully request His Excellency withhold sanction Immigration Bill pending representations. Osman Ahmed, Chairman.

Enclosure 5 in No. 2.

TELEGRAM FROM ANJUMAN ISLAM, DURBAN, to PRIVATE SECRETARY TO LORD GLADSTONE.

17th June, 1913. Urgently respectfully request His Excellency withhold sanction Immigration Bill pending representations. M. S. Randell, Chairman, 101, Field Street, Durban.

No. 3.

INDIA OFFICE to COLONIAL OFFICE.

(Received 4 August, 1913.)

(Extract.)

India Office, Whitehall, London, S.W., 2 August, 1913.

In continuation of previous correspondence on the South African Immigration Act, I am directed by the Marquess of Crewe to transmit for the consideration of the Secretary of State for India the following telegram from the Marquess of Crewe to the Secretary of State for India.

The final alteration in the wording of Section 5 (g) of the Act does not materially affect the point urged by the Government of India in their letter of the 3rd July, but it appears to have been accepted to meet the Indian point of view, and I am, therefore, to express Lord Crewe's reliance on the assurance given by Mr. Fischer in debate that "Indians will as heretofore be allowed to introduce one wife each into the country."

Enclosure 1 in No. 3.

GOVERNMENT OF INDIA : DEPARTMENT OF COMMERCE AND INDUSTRY : EMIGRATION.

(No. 35 of 1913.)

MY LORD MARQUESS,

Simla, the 3rd July, 1913.

WE have the honour to refer to Mr. Ferard's letter, dated the 30th May, 1913, enclosing copy of further correspondence regarding the South Africa Immigration Bill.

2. We observe that His Excellency the Governor-General, in his telegram of the 27th May,* reports that an amendment in Clause 5 (g) was moved by Mr. Alexander and accepted by the Minister, the effect of which is to include among non-prohibited immigrants "the wife or the child of a lawful and monogamous marriage duly celebrated according to the rites of any religious faith outside the Union and duly registered at the place of celebration and having all the legal consequences of a lawful marriage duly celebrated within the Union."

3. It would appear very doubtful whether any marriage of a Hindu or a Muhammadan can be correctly described as "monogamous" even if the Hindu or Muhammadan concerned has only married one wife, nor is it usual for such marriages to be registered in India. We are apprehensive, therefore, that the effect of this amendment might be to impose a fresh check upon the admission of wives and children of Hindu and Muhammadan residents in South Africa, should it be considered as in any way overriding the undertaking given in Mr. Fischer's letter to Lord Gladstone of the 24th April last (which forms one of the enclosures to Mr. Ferard's letter under reference) to the effect that the Government "will still admit one wife per man as before so long as she is really his wife, whether she has been married by a custom which recognises polygamous marriages or not." The matter is one of great importance in India, and we should be glad, therefore, to receive an assurance that Mr. Fischer's undertaking may be regarded as unaffected by the amendment now reported and is continuing in force.

4. We would further remark that the embodiment in Statute of the condition of "monogamous marriage" may prove an obstacle to the carrying out of the undertaking above described, even assuming that that undertaking has not been definitely abandoned.

We have, &c.,

HARDINGE OF PENSHURST.
 O'MOORE CREAGH.
 HARCOURT BUTLER.
 SAIYID ALI IMAM.
 W. H. CLARK.
 R. H. CRADDOCK.
 E. D. MACLAGAN.
 W. S. MEYER.

To the Most Honourable the Marquess of Crewe, K.G.,
 His Majesty's Secretary of State for India.

No. 4.

MR. M. K. GANDHI to MR. GORGES (SECRETARY FOR THE INTERIOR).

(Copy left at the Colonial Office by Mr. Polak, 6 August, 1913.)

DEAR MR. GORGES,

2nd July, 1913.

WITH reference to the interview between us this morning, and in accordance with your wishes, I reduce to writing the points discussed between us.

1. With reference to Indians born in South Africa and their right under the Cape Immigration Act to enter the Cape: in my opinion under Section 5 of the new Act such men will not be able to enter the Cape by reason of the proviso of that Section 5. If the Government intend to recognise their right to enter the Cape on proving their South African birth, as heretofore, they can do so without further legislation by regulations that would exempt them from the operation of Section 4, Clause I. (a), of the Act. It may be observed that if such Indians can pass the simple education test of the Cape they can enter that Province under paragraph (a) of Sub-section 2 of Clause 4. As you are aware, most of the Colonial-born Indians have passed through the Government Indian schools, and possess sufficient knowledge to undergo the Cape examination. It is also a well-known fact that throughout the time that the Cape Act has been in force, hardly any South African-born Indian not belonging to the Cape has endeavoured to migrate to that Province; the reason is that there is no scope for them there.

2. With reference to the indentured Indians who entered Natal under the amending legislation of 1895, as I have already told you, the Natal Courts have held that these indentured men, after they have finished their indentures, are free to settle in Natal, and could not be treated as prohibited immigrants if they have not re-indentured themselves, and that after three years' residence without indenture these people acquire, under the Natal Immigration Act, full rights of domicile in the same manner as other Indians; such Indians now appear to be affected by the definition of the term "domicile" in the present Act. I have already told you that we have obtained best legal opinion in Natal, which is to the effect that the definition does not cover such Indians, and that their rights will not be affected by the new Act. However, I do not wish to take upon my shoulders the responsibility of advising my countrymen that they may be guided by that opinion alone. It is my sincere desire that any points which I, at least, can foresee should not be left open or not entirely understood. If the Government, however, give the same interpretation to the term "conditional" that our counsel does, an assurance to that effect settles this point. Let me state it as clearly as I can. We are not seeking to gain any new rights for indentured Indians, but we are anxious that their present rights should be left intact, and these, according to the belief of the Indians, are that, if an indentured Indian, entering into a contract of service after 1895, having become free at the end of his contract, does not re-indenture, lives in the Province for three years, then goes to India and returns, he has a right to re-enter under the present Immigration Law of Natal by reason of his three years' free residence.

3. As to the Free State, I have drawn your attention to the letter from General Smuts to the effect that, in his opinion, possibly the Free State declaration was not required. If that is the legal position according to the legal advisers of the Government, a statement to the effect that such is the position will meet the difficulty. I venture to suggest that the general declaration that will be required in terms of Section 19 of the new Act may have all the disabilities printed at the back thereof, including Section 7 of the new Act. Then there need be no repetition of a declaration when a British Indian is recognised as an immigrant for the Free State.

4. As to the marriage question, in view of the Searle judgment* it is absolutely necessary to legalise Indian marriages celebrated or to be celebrated within the Union. This can be done by amending the new Act by removing the words "outside the Union" from the marriage clause of the Act, or by amending the marriage laws of the different Provinces authorising the Government to appoint marriage officers

according to the rites of the respective religions of the parties would be recognised as proper proof of marriage.

With reference to the marriage amendment in the new Act, I understand that only monogamous marriages will be recognised, and I appreciate that nothing more can be done in law at present, but an assurance is necessary to the effect that the present practice of admitting one wife of an Indian immigrant so long as she is the only one in South Africa, irrespective of the number of wives he might have in India, will be continued.

Then there will remain the question of polygamous marriages. As I have told you, there are not many such cases, but it is necessary to admit or re-admit plural wives of Indians who are already resident in South Africa. No new polygamous unions need be administratively recognised. A list can easily be prepared of those who have more than one wife, either in the Union or outside it. My remarks are naturally applicable to the children of these unions also. I may point out that, in July of 1911, General Smuts gave the assurance that special cases of polygamy would be considered by the Government.

I think that I have now exhausted all the points we discussed. If you think that there is anything omitted or that I should supplement this letter, kindly let me know. It is clear that the solution of this difficulty is very easy because, with the exception of the marriage difficulty, all the points can be settled without an Act of Parliament.

If a settlement is arrived at, it will be necessary to discuss the mode of admitting new entrants and the number for the various Provinces. May I suggest that, if the solution suggested by me is considered acceptable by General Smuts, you should telephone to me, so that I can come over to Pretoria and a final letter setting forth the terms of the settlement may be given to me? I make the suggestion, so that there may be no correspondence necessary in order to elucidate any doubt that might arise as to the language of any letter that might be given to me, and the question of new entrants could also then be discussed. I have told you how urgent the matter is, and may I rely upon your courtesy to let me have an early reply?

I am sending this letter per Mr. Pragji Desai, who will be at your disposal to carry any communications you may wish to send me, and, if you require me at the telephone, you have only to ring up 1635, and I shall be at the telephone from wherever I may be.

I am, &c.,
M. K. GANDHI.

No. 5.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 9 August, 1913.)

SIR,

Governor-General's Office, Pretoria, 18 July, 1913.

WITH reference to my despatch of the 18th June,† I have the honour to transmit to you herewith a copy of the Regulations framed under Section 26 of the Immigrants Regulation Act, No. 22 of 1913, which were published in the Union Gazette of the 15th July.

I have, &c.,
GLADSTONE,
Governor-General.

Enclosure in No. 5.

EXTRACT FROM THE "UNION GAZETTE," 15TH JULY, 1913.

No. 1079.]

[11th July, 1913.]

HIS EXCELLENCY THE GOVERNOR-GENERAL has been pleased, under the powers vested in him by sub-section (1) of section *one* of the Immigrants Regulation Act, No. 22 of 1913, to establish a department, to be known as the Immigration Department, under the control of the Minister of the Interior.

His Excellency has further been pleased, under the powers vested in him by section *twenty-six* of the said Act, to approve of the accompanying regulations.

REGULATIONS.

Preliminary.

1. In these regulations the expression "the Act" shall mean the Immigrants Regulation Act, 1913, or any amendment thereof, and any expression to which a meaning has been assigned in and for the purposes of the Act shall, when used in these regulations, bear the same meaning.

Examination and Control of Vessels.

2.—(1) Save as in sub-section (2) of this regulation is excepted, whenever any ship arrives at a port it shall be boarded by the immigration officer immediately after pratique has been given by the health officer; and, subject to such exemptions as the Minister may authorize, in accordance with the proviso to section *twelve* of the Act the following documents properly completed shall be furnished by the master:—

- (a) A list in the prescribed form of all persons on that ship who are passengers for the ports of the Union, of all persons thereon who are passengers in transit for ports outside the Union, and of all stowaways and other persons not on the ship's articles.
- (b) A list on the prescribed form of the crew of the ship (including passage workers), together with a certificate of the master that on such list are included all persons on board who are not included on the list described in paragraph (a), or, in the event of the ship having no passengers or stowaways, a certificate of the master that on the list mentioned in this paragraph are included all persons on board.
- (c) A certificate by the medical officer or the master of the ship in the form set out in the First Annexure to these regulations.
- (d) When the ship has previously touched at a port of the Union on this voyage, the bill of immigration in the prescribed form issued by the immigration officer at the last port of call.

(2) The provisions of sub-section (1) of this regulation shall not apply

- (a) to a ship of State or of war; or
- (b) except in special circumstances, to ships which make coasting voyages between ports all of which are within the Union.

3. The master of any ship arriving at any port in the Union shall fly the code flag "I" on the stay halliards until notified by the immigration officer that the general examination of the persons on board the ship under the Act has been completed; and no person (not being a pilot or port health officer, or a port officer or a Customs officer) shall leave or board the ship prior to the completion of such examination except upon the authority of a permit issued by the immigration officer: Provided that the immigration officer may, when he deems necessary, take such further steps, in accordance with sub-section (2) or (3) of section *eleven* of the Act, as may be necessary to prohibit or regulate communication with or landing on the shore from any ship.

4. For the certificate of an immigration officer required to be produced to the officer of Customs before clearance papers are issued for the purpose of section *seventeen* of the Act, application may be made by the master or his agent at the office of the immigration officer between the hours of 9 a.m. and 1 p.m., and 2 p.m. and 5 p.m., on the day of, or the day preceding, the departure of the ship, and the master, on the day of departure, shall sign a leaving certificate in the prescribed

immigration officer may exercise such further powers as are conferred by section *fifteen* of the Act.

5. No member of a crew shall be discharged from the ship's articles at any port in the Union except with the written permission of the immigration officer.

6. Any member of a crew who deserts from his ship or who is signed-off without the authority of the immigration officer may, if found in the Union, be dealt with under the Act.

Examination of Passengers and other Persons.

7. All passengers for ports of the Union and all passengers in transit for ports outside the Union whom the immigration officer may deem it necessary to examine shall ordinarily be examined at the ship's first port of call in the Union. At ports other than the ship's first port of call the immigration officer shall only examine the persons to whose cases his attention is directed in the bill of immigration furnished under paragraph (d) of regulation 2, unless in special circumstances a further examination of any person not referred to on such bill is deemed to be necessary.

8. The examination of persons in accordance with section *nineteen* of the Act shall be conducted by the immigration officer on board a ship or at such other place or places as may be convenient for the purpose; and every person before being permitted to land or to remain in the Union or Province as provided in that section shall be required to complete a declaration in the form set out in the Second Annexure to these regulations.

9. Notwithstanding that the said form has been completed by any passenger or any other person before he has been examined by an immigration officer, that officer shall, unless otherwise directed by the Minister, require every person dealt with under this regulation to declare thereto before himself, and shall satisfy himself where he has any doubts that the signatory thereto is sufficiently educated to understand such declaration; or may require such person himself to fill in and sign a fresh form of declaration in the presence of such officer; or if such person be unable to fill in such form the officer shall question him (through an interpreter if necessary) and shall himself fill in or cause to be filled in the form of declaration, and shall thereupon require such person to sign such declaration or make his mark thereto.

10. Upon the completion of the examination of passengers on any ship the immigration officer shall, in accordance with sub-section (5) of section *two* of the Act, give notice to the master in the prescribed form of the names of such passengers as have been found to be prohibited immigrants and of the grounds therefor, and the master shall sign a receipt for such notice and shall otherwise be held responsible under the Act for the safe custody of such prohibited immigrants and for their removal from the Union.

11. The immigration officer shall, in the case of every person deemed to be a prohibited immigrant, enter on the prescribed form a full record of his examination of such person, and shall forthwith transmit the record to the immigration officer in charge, together with all documents relating thereto.

12. The immigration officer, after commencing his examination of any person who has not satisfied him that he is not a prohibited immigrant, may provisionally restrict the landing of such person or continue his detention if he is in custody, and may cause such inquiries to be made or await such further information as may be necessary before finally informing any person, in accordance with sub-section (5) of section *two* of the Act, that he is a prohibited immigrant and, in accordance with sub-section (2) of section *nineteen* of the Act, that he may appeal to the board. For these purposes the prescribed form shall be used.

13. For the purposes of sub-section (1) (c), section *four*, of the Act it shall ordinarily be sufficient evidence that the immigrant is not likely to become a public charge if (not being a person suffering from infirmity of mind or body) he satisfy the immigration officer

- (a) that he has the means of reaching his destination; and
- (b) that he has definite employment awaiting him, or that having a reasonable prospect of employment he has some temporary means of support, or that he has friends able and willing to support him, or that he has with him such a sum of money which is his own property as is sufficient in the opinion of the immigration officer to maintain the immigrant and his dependents until he obtains employment or other means of

and where the immigrant is dependent for his support upon relatives or friends or an employer, the immigration officer whenever he deems it necessary may require a guarantee for the immigrant's maintenance for a prescribed period or for his return to the country from which he came within that period if he becomes or is likely to become a public charge.

14. The immigration officer may require for the purpose of an application made in respect of a wife or child, under paragraph (g) of section *five* of the Act, a properly authenticated copy of the certificate of the marriage, or of the birth, as the case may be; or, if no copy of such marriage certificate or birth certificate can be produced, the immigration officer may require the production of an official certificate under the hand of

- (a) an officer competent to give the same, stating that in his personal knowledge the parties were married on a date under the circumstances stated; or (as the case may be) that the child was born on a date and at a place set out and of parents named in such certificate; or
- (b) the production of a certificate under the hand of an officer competent to give the same, stating that he has taken sworn testimony or other evidence as to the circumstances and date of the marriage, or the date of birth and the parentage of the child, and that such testimony and such evidence is attached to such certificate together with such officer's finding thereon.

The immigration officer may require any certificate mentioned in this regulation to be supplemented by satisfactory evidence as to the identity of the persons referred to in the certificate, and the immigration officer may, in any case of doubt, require such further evidence as may be necessary to satisfy him that any wife or child referred to in the certificate is such a wife or child as, under paragraph (g) of section *five* of the Act, is exempted from being considered a prohibited immigrant.

15. In the event of an immigration officer becoming aware of any circumstances constituting reasonable grounds for suspecting that any person within the Union or any Province is a prohibited immigrant in the Union or that Province (as the case may be), he shall apply to a magistrate or to a justice of the peace for a warrant of arrest in the form set out in the Third Annexure to these regulations or shall otherwise proceed in terms of section *nine* of the Act, and shall cause such person to be brought before him and thereupon proceed, as provided in section *nineteen* of the Act, and in accordance with these regulations, in order to ascertain whether such person is a prohibited immigrant, and such person may if necessary be detained as provided in regulation 25, pending the completion of such inquiry, and may be further detained thereafter as provided in that regulation if it is found that he is a prohibited immigrant; provided that if the immigration officer be satisfied that such person is a person described in section *six* of the Act he may cause him to be prosecuted for an offence thereunder.

Medical Examination.

16.—(1) The port health officer or other medical practitioner appointed by the Minister shall, as far as possible, be present at the examination of all passengers arriving by ship and seeking to land in the Union, and shall indicate to the immigration officer any passenger who ought, in the opinion of such health officer or medical practitioner, to be medically examined. The immigration officer may require such health officer or medical practitioner to make a medical examination of any such passenger and of any other person entering or found within the Union who is required to submit to such medical examination.

(2) The medical examination of any such passenger shall take place, in the case of a passenger seeking to land from a ship, on the ship or at such other place as may be convenient, and as soon as possible after the arrival of the ship, and a report as to the result of such examination shall be rendered to the immigration officer and shall accompany that officer's record of proceedings furnished to the immigration

List of Diseases the affliction with which will render a person a Prohibited Immigrant.

17. For the purposes of sub-section (1) (h) of section *four* of the Act, the following diseases shall, in addition to leprosy, be deemed to be diseases the affliction with which shall render a person a prohibited immigrant, viz.:—

- (a) Trachoma.
- (b) Favus.
- (c) Framboesia or yaws.
- (d) Syphilis.
- (e) Scabies.

Permits to Persons Suffering from Tuberculosis.

18. Permits issued in accordance with sub-section (1) (h) of section *four* of the Act to persons afflicted with tuberculosis shall be issued in the prescribed form and under the conditions set out in regulation 20, but no such permit shall be issued except at the ports of Capetown and Durban. Every such permit shall further be issued subject to such of the special conditions set out in this regulation as may be prescribed in any case, and such conditions shall be accepted in writing by the holder of the permit before the permit is issued to him. Any breach of these conditions shall be held to be such a breach of the conditions of the permit set out in regulation 20. The following shall be the special conditions aforesaid:—

- (a) That the place of residence and every change of residence of the holder of this permit and his manner of transport shall be subject to the approval of the immigration officer in charge.
- (b) That the holder of this permit shall not at any time use or occupy any bedroom or other sleeping accommodation used by any other person.
- (c) That the holder of this permit shall observe and carry out such regulations as to the conditions of residence, disposal of sputum, disinfection, and generally for preventing spread of infection as may be laid down by the local health authority, or, where there be no such authority, by the district surgeon or other authorised officer.
- (d) That the holder of this permit shall personally report himself on arrival at any place forthwith to the local health authority (if any) of such place of his arrival and address thereat.
- (e) That the holder of this permit shall present himself, at such times and places as may be prescribed, for medical examination by the district surgeon or an approved medical practitioner, and shall defray the cost of such examination, or, in the case of a district surgeon, pay fees therefor at a tariff prescribed by the Minister.

Appeals to an Immigration Board.

19.—(1) It shall be the duty of an immigration officer, after having notified to a person whom he has declared to be a prohibited immigrant in accordance with regulation 11, and when he is informed by such person, in accordance with sub-section (7) of section *two* of the Act, that it is his intention to appeal to a board, to supply to such person for completion by him a notice of appeal in the following form:—

Notice of Appeal.

I, _____ being a { passenger on the s.s. }
 { person arrested at }
 hereby notify my intention to appeal against the declaration of the immigration officer that I am a prohibited immigrant within the meaning of the Immigrants Regulation Act, 1913; and I deposit herewith the sum of _____ pounds (£) as required to cover the cost of my detention and maintenance and such other expenditure as may be incurred by the immigration officer on my behalf, and also the cost of my removal from { the Union } or unless I am declared not to be a prohibited immigrant: { this Province }

Date _____

Signature _____

(2) The immigration officer shall notify the appellant the amount of the deposit which he is required to make under the Act, and when the notice of appeal has been received by him in a completed form from the appellant he shall transmit the same to the immigration officer in charge. He shall then arrange for the reception of the appellant at the detention depôt, or at such other place as may be approved for his accommodation pending the determination of his appeal.

(3) If there be no board which ordinarily sits or is sitting or about to sit at his station the immigration officer shall also communicate with the immigration officer in charge by telegraph, and shall inform the appellant that if he desires to be present at the hearing of his appeal he will be required himself to pay for his passage by sea, or for his transport by land subject to such conditions as may be imposed and under escort approved by the immigration officer, and paid for by the appellant to and, if necessary, from the place at which the board having jurisdiction is to sit. On arrival at such place the appellant shall be dealt with as provided in sub-section (2) of this regulation.

(4) Subject to such instructions as he may receive, the immigration officer may issue to an appellant, as an alternative to detention, a temporary permit under subsection (1) of section *twenty-five* of the Act.

(5) It shall be the duty of the immigration officer in charge as soon as he has received information that an appeal has been noted to inform the chairman of the board having jurisdiction in the matter, and such chairman shall appoint a time for the board to meet, and cause the other members thereof to be duly notified of the time so appointed. The immigration officer shall also give notice to the appellant of the time and place at which his appeal will be heard, and shall, subject to sub-section (4) of this regulation, arrange for him to be present if he so desires. The board shall sit at such place as may be generally or specially prescribed by the Minister.

(6) The appeal shall then be heard as provided in section *two* of the Act, and the chairman of the board shall at the conclusion thereof endorse on the notice of appeal which was completed by the appellant in accordance with sub-section (1) of this regulation the decision of the board in regard to that appeal.

(7) If the appeal be dismissed the appellant shall remain in the custody of the immigration officer, who shall forthwith take such steps as may be required for his return to the place from which he embarked, or shall otherwise arrange for his removal from the Union, or for such temporary or conditional residence within the Union as may be permitted under the Act. If the appeal be allowed the appellant shall be discharged from custody, or shall be relieved from the conditions of any temporary permit issued to him, and he shall receive from the immigration officer in charge a refund of such portion of any deposit as may be due to him after payment of the charges for detention and maintenance and the like.

(8) The immigration officer in charge shall, at the request of the chairman of the board, summon any witness by causing to be served upon such witness a notice in the following form :—

Summons to Witness.

This is to notify you that you are
summoned by the Immigration Board at to be present at
the meeting of the board at the hour of
and to testify to your knowledge of circumstances relating to
a prohibited immigrant who { has arrived at by the
{ has been arrested at
S.S.)

You are further required to produce the following documents

You are warned that should you, without reasonable excuse, fail to attend the meeting of the board as herein notified or to produce such documents as you are required to produce you render yourself liable to the penalties prescribed in sub-section (9) of section *two* of the Immigrants Regulation Act, 1913 (Act No. 22 of 1913).

Immigration Officer in Charge.

Place

Date _____

(9) At the hearing of an appeal there shall be placed before the board a statement by the immigration officer of the grounds upon which he has deemed the appellant to be a prohibited immigrant, and the board shall inform the appellant accordingly, and the appellant may then himself give evidence on his behalf, and call such witnesses and produce such documents as he may desire. It shall then be competent for the board to call such further evidence as it may deem necessary, or as the immigration officer may desire to be considered.

(10) Any member of a board may put to any witnesses such questions as he may consider relevant to the issue, and the appellant may examine or cross-examine witnesses other than those called by or on his behalf, and the immigration officer shall similarly be entitled to examine and cross-examine witnesses.

(11) The board shall in its consideration of a case brought before it determine the fact that the appellant is or is not of the class or classes alleged by the immigration officer, or of any other of the classes described in section *four* of the Act, or if he is one of such classes shall determine whether he has or has not brought proper proof that he is a person exempted under section *five* of the Act from being a prohibited immigrant; and if the board finds as a fact that the appellant is such a person as is described in section *four* of the Act, and has not brought proper proof or has otherwise failed to satisfy the board that he is a person so exempted, the board shall dismiss the appeal.

(12) The immigration officer in charge, before the hearing of any appeal, and the board after the commencement of such hearing, may, in the case of an appellant who claims to be domiciled in, or to be a lawful resident of, a Province other than that in which he has arrived or has been arrested, cause such appeal to be transferred for hearing to the board having jurisdiction in such other Province; and the appellant shall thereupon be dealt with in accordance with this regulation.

Permits and Certificates.

20.—(1) The temporary permit which may be issued to a prohibited immigrant under sub-section (1) of section *twenty-five* of the Act shall be in the form set out in the Fourth Annexure to these regulations, and shall entitle such person to enter the Union or any particular Province or to tranship to another vessel, or to pass through the Union or any particular Province to some destination beyond, or to reside temporarily in the Union or any particular Province for some approved purpose. In respect of each such permit a fee of one pound shall be paid, and such person shall further be required to deposit a sum not less than ten pounds and not exceeding one hundred pounds as security for the observance by him of the conditions imposed under the permit. The deposit shall only be refunded upon the fulfilment of such conditions and upon such persons leaving the Union or the said Province (as the case may be) within the period for which the permit is issued or upon the cancellation of the conditions by the immigration officer.

(2) If such person fail to comply with any one or more of the said conditions he shall further be liable to the penalties which may be imposed in the circumstances described in paragraph (b) of section *twenty-seven* of the Act, and if he fail to leave the Union or the Province (as the case may be) within the period allowed to him he may be prosecuted for contravening section *six* of the Act; or otherwise he may be dealt with under section *twenty-one* of the Act if, having been ordered by an immigration officer to leave the Union or a Province, whether before or after the expiration of any such permit, he has failed so to leave.

(3) It shall be deemed to be a condition of every permit that the holder shall report himself to the officers and at the periods and places specified in such permit; and if the holder give any false or misleading address, he shall be liable to forfeiture of his permit and deposit, and to be dealt with as a prohibited immigrant.

(4) No permit shall be issued for a period exceeding seven days without the authority of the immigration officer in charge, nor for a period exceeding twelve months without the sanction of the Minister.

(5) It shall be deemed to be a condition of every permit that the holder shall give the immigration officer in charge or the immigration officer of the port at least one day's notice of his intention to leave the Union or the Province (as the case may be).

21.—(1) The certificate of identity which may be issued, in terms of sub-section (2) of section *twenty-five* of the Act, to persons lawfully resident in the Union

certificate a fee of one pound, and every certificate shall contain such particulars and marks as may be deemed necessary for purposes of identification.

(2) No such certificate shall be issued unless there be lodged with the immigration officer in charge a properly completed declaration in the prescribed form supported by satisfactory documentary evidence as to the identity of the applicant and of his claim to be a lawful resident of the Union or in the Province in question.

22. A duplicate of a lost permit or certificate may be issued by the immigration officer in charge if he is satisfied as to the circumstances under which such document has been lost, but in respect of the issue of such duplicate there shall be paid twice the amount of the fee prescribed for the original issue of the document lost.

23. The immigration officer in charge may cancel any certificate, permit, or duplicate thereof issued under the Act or these regulations on being satisfied, either that the holder thereof has failed to comply with or committed a breach of the conditions of such document, or that the document was obtained by a false declaration or misrepresentation; and thereupon the holder of such document shall be deemed not to possess the same.

24. Any warrant which may be issued under section *six*, *twenty-one*, or *twenty-two* of the Act shall be in the form set out in the Sixth Annexure to these regulations.

Detention of Prohibited Immigrants.

25.—(1) Save as is otherwise provided in the Act, any person detained in custody thereunder may be detained at any place at which persons undergoing civil imprisonment or under arrest awaiting trial are liable to be detained, or in any place specially provided for the detention of prohibited immigrants, or if there be no such place available, then at any other place which may be convenient, regard being had to the circumstances.

(2) Any gaoler or immigration guard shall accept custody of any such person or [? on] the order of the immigration officer, or on the order of a magistrate issued at the request of an immigration officer, but no person shall be so detained in custody for any longer period than is necessary for the purposes of any prescribed inquiry or for the completion by the immigration officer of arrangements for the removal of such person from the Union or any Province at the first reasonable opportunity.

(3) The production of a warrant of removal shall be sufficient authority to any gaoler or other officer to deliver the person named therein to the escort appointed to bring such person to a port or other place for the purpose of removal in terms of such warrant.

(4) In accordance with section *nineteen* of the Administration of Justice Act, 1912 (Act No. 27 of 1912), the execution of any such order or warrant may be effected by telegraph, and a telegraphic copy thereof, served or executed as required by this regulation, shall be of the same force and effect as if the original had been so served or executed.

26. Whenever under sub-sections (1), (a), (d), (f), (g) of section *four* and section *twenty-two* of the Act the Minister has expressed an opinion on the matters therein provided that opinion shall be embodied in a document issued by him.

27. In the event of the arrest upon a criminal warrant of a prohibited immigrant who has arrived on any ship or is being detained under section *thirteen* of the Act he may be brought or detained on shore; but if the criminal proceedings consequent upon such arrest be terminated by his acquittal, or by the expiration of his sentence of imprisonment, or by payment of any fine imposed upon him, such prohibited immigrant shall be handed over to the custody of the immigration officer, and shall thereafter be detained under and subject in all respects to the provisions of the Act and these regulations, and the master of the ship may be required before leaving the port to make arrangements satisfactory to the immigration officer for the removal of such prohibited immigrant from the Union.

28. The immigration officer in charge may, on receiving notice that a prohibited immigrant in any territory adjoining the Union or in any Province is being placed over the border of the Union or any Province, cause such prohibited immigrant, if necessary, to be arrested and to be brought under proper escort to a port or such other place in the Union or any Province as may be deemed necessary in order to secure

been so placed over the border may return him to the territory whence he came, unless a proper undertaking is given for the payment of expenses of the escort and detention of such prohibited immigrant in the Union and his removal therefrom.

29. The police authorities, upon the conviction of any person for contravening section *six* of the Act, shall report forthwith to the immigration officer in charge, and a warrant may be issued in the form set out in the Sixth Annexure to these regulations for the removal of the convicted person from the Union or any Province.

30. Any person employed by the Department to have custody and control of any person detained as a prohibited immigrant shall carry out such duties as are assigned to him by an immigration officer.

31. Any person who fails to comply with any provision of these regulations with which it is his duty to comply, or who otherwise contravenes these regulations, shall, on conviction, in addition to any other penalty to which he may be liable for an offence under the Act, be liable to a fine not exceeding fifty pounds, or, in default of payment, to imprisonment with or without hard labour for a period not exceeding three months.

FIRST ANNEXURE.

Certificate of Medical Officer (or Master) of Ship.

Persons who have suffered during the voyage from infectious or other disease :—

Name.	Passenger or Crew.	Nature of Disease.

Persons who have been suffering during the voyage from physical or mental infirmity or affliction :—

Name.	Passenger or Crew.	Nature of Infirmity or Affliction.

I hereby certify that the above list of persons comprises all cases of infectious or other disease and all cases of physical or mental infirmity or affliction which have come to my notice during the voyage, both amongst the passengers and crew of the ship

Certified by me at the port of _____ this
day of _____ 19____

Medical Officer (or Master).

SECOND ANNEXURE.

Declaration by Passenger or Other Person.

(The information required hereunder must be given in English or Dutch.)

- (1) Name in full (1).....
- (2) Port of Embarkation (2).....
- (3) Port of intended Debarkation (3).....
- (4) Age (4).....
(If over 21 years state " Full ")
- (5) Sex (5).....
- (6) Race (6).....

- (7) Nationality
(British, French, German, &c.)

(8) If accompanied by wife, state her name

(9) If accompanied by children (or wards) under 16 years, state name and age of each.
(If unaccompanied by wife or children, state "Travelling unaccompanied" in reply to questions 8 and 9.)

(10) Address at destination in full

(11) Period (if any) of previous residence in South Africa.
(If none, state "None.")

(12) Occupation

(13) What means can you produce, your own bona fide property?
(If more than £20, state £20. If £20 or less, state full amount, and explain what documentary evidence you have of definite employment, or support, promised to you; and what references you can give to persons in South Africa?)

(14) What European language can you write?

(15) Have you ever been prohibited from entering the Province or expelled from it?

(16) Have you been convicted of any crime in any country?

I hereby declare that I understand the above questions, and have answered them truly.

Signature or Mark of Passenger :

Declared before me at this day of

Immigration Officer.

THIRD ANNEXURE.

Warrant of Apprehension.

Esquire,

for the
To the Field Cornets, Constables, Police Officers, and other Officers of the Law, proper to the execution of Criminal Warrants.

WHEREAS, from information taken upon oath before me, there are reasonable grounds of suspicion against of, that he being a prohibited immigrant is within the Union (or this Province) in contravention of the Immigrants Regulation Act, 1913.

These are, therefore, in His Majesty's name, to command you that immediately upon sight hereof you apprehend and bring the said or cause to be apprehended and brought before the Immigration Officer at to be examined and to answer to the said information, and to be further dealt with according to law.

Given under my hand at this day of

FOURTH ANNEXURE.

Temporary Permit: Fee, One pound (£1).

Sum deposited Pounds (£). Deposited by
(To be refunded on production of this Permit when leaving the Province, and on fulfilment of the other conditions imposed hereunder.)
Subject to the conditions stated hereunder, the holder, of is permitted to enter the Province at for the purpose of

Immigration Officer.

(Date Stamp.)

Conditions.

1. The holder of this permit shall leave the Province within from the date hereof, that is to say, on or before the day of without expense to the Government.
2. The holder of this permit shall report to the at at periods of and to keep that officer duly advised of his whereabouts.
3. The holder of this permit shall give at least one day's notice of intended departure from this Province.

I/We agree to the above conditions, and I/we clearly understand that any breach of these will involve the forfeiture of the above deposit, and will render the holder liable to be further dealt with according to law.

Signature of Holder
Signature of Depositor

Witness
Place

Identification Marks :

FIFTH ANNEXURE.

Certificate of Identity: Fee, One pound.

It is certified that having appeared before for the purpose of supplying the means of identification which are now specified herein, and having intimated that he/she is about to absent himself/herself from the Province of for a period of on a visit to this document is issued to the said and, subject to the conditions enumerated below, and to the verification of the marks of identification, will be accepted by the examining immigration officer without further evidence as proof of the identity of the said on his/her return.

Immigration Officer in Charge.

Date
Place

Conditions under which this Certificate is issued.

1. That on the return of the person referred to herein to the Province of this certificate shall be surrendered to the examining immigration officer.
2. That if the person referred to herein seeks to re-enter the Province of after a period of one year has elapsed from the date hereof, the protection afforded by this certificate shall be deemed to have lapsed, and he/she shall be required to satisfy the requirements of the Act.
3. This certificate may be held to be invalidated if the person named herein is shown to the immigration officer to have made a false declaration in a material point when applying for a certificate.

SIXTH ANNEXURE.

Warrant for the Removal of a person under sections six, twenty-one, and twenty-two of the Immigrants Regulation Act, 1913.

To the Immigration Officer in Charge.

Whereas *
has rendered himself/herself liable to removal from the Union/Province of the
by reason that in terms of section
of the Immigrants Regulation Act, 1913, the said †

You are hereby authorized to cause the said

to be removed from the Union/from the said Province into the Province of _____
under proper escort and subject to necessary detention in
custody, as provided under the Act.

19 Dated at this day of Secretary for the Interior.

* Here insert name and description of the person.

† Here recite the nature of the circumstances which have rendered the said person liable to removal.

No. 6.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

[Answered by No. 13.]

MY LORD, Downing Street, 14 August, 1913.

WITH reference to previous correspondence on the subject of the Immigration Act, I have the honour to inform Your Excellency that I have learnt from Lord Crewe that the Indian Government express some fears as to the effect of the amendment in Clause 5 (g) of the Act, which exempts from the list of prohibited immigrants "the wife or child of a lawful and monogamous marriage duly celebrated according to the rites of any religious faith outside the Union." The Government of India observe that it would appear very doubtful whether any marriage of a Hindu or a Muhammadan can be correctly described as "monogamous," even if the Hindu or Muhammadan concerned has only married one wife, and they are apprehensive, therefore, that the effect of this amendment might be to impose a fresh check upon the admission of wives and children of Hindu or Muhammadan residents in South Africa, should it be considered as in any way overriding the undertaking given by Mr. Fischer to the effect that the Government will still admit one wife per man as before, so long as she really is his wife, whether she has been married by a custom which recognises polygamous marriages or not.

2. While there may be some force in the point urged by the Government of India, I believe that the amendment in question was accepted to meet the Indian point of view, and His Majesty's Government rely on the assurance given by Mr. Fischer, which, I observe, was repeated during the debate on the Bill in the House of Assembly. As, however, the matter is one of great importance in India, I should be glad to receive an assurance from Ministers that Mr. Fischer's undertaking may be regarded as unaffected by the amendment in question, and continues

No. 7.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

MY LORD,

Downing Street, 22 August, 1913.

I HAVE the honour to acknowledge the receipt of Your Excellency's telegram of the 18th July,* communicating a resolution passed by a mass meeting of the Indian community at Durban on the 29th June, expressing disapprobation of the Immigrants' Regulation Act of the Union Parliament.

2. I have to request that you will inform the Chairman of the meeting that His Majesty's Government are not prepared to advise His Majesty to exercise his power of disallowance in respect of this Act.

I have, &c.,
L. HARCOURT.

No. 8.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 25 August, 1913.)

SIR,

Governor-General's Office, Pretoria, 4 August, 1913.

WITH reference to your despatch of the 5th April,† on the subject of the position of British Indians in the Union under the Financial Relations Bill, and the £3 tax on ex-indentured Indians in Natal, I have the honour to inform you that the contents were summarised in a minute of which I forward a copy herewith.

I attach a copy of a minute which I have now received from Ministers in reply.

I have, &c.,
GLADSTONE,
Governor-General.

Enclosure 1 in No. 8.

MINUTE TO MINISTERS.

(No. 7/747.)

Government House, Cape Town, 21st May, 1913.

The Governor-General informs Ministers that the Secretary of State for the Colonies has communicated to him certain observations by the Secretary of State for India upon the position of British Indians in the Union under the Financial Relations Bill which has now passed into law.

Lord Crewe, while he was glad to note that the existing rights of appeal against licensing decisions in Natal would be retained, reminded Mr. Harcourt that these limited rights had not been found sufficient to prevent cases of hardship in that Province. He feared, moreover, that the existing position of Indian licence holders in the Transvaal might be most prejudicially affected under the provisions of the Bill as it did not appear to protect them from the possibility of being deprived of the right of appeal to a judicial authority which they at present possessed against refusals to grant fresh licences or transfers of existing licences. He, therefore, expressed the hope, with which the Governor-General confidently associates himself, that this aspect of the case would continue to receive the careful and sympathetic consideration of the Union Government.

In regard to the £3 tax on Indians in Natal, it appeared to Lord Crewe that, as the proceeds of the tax were to be retained by the Central Government, the question of reducing the tax had presumably become one dependent on the financial conditions of South Africa as a whole, and not on the revenues of the Province. He was anxious to suggest, for the consideration of Ministers in dealing with this matter, that the entire exemption of women from the tax had already been contemplated, and he regarded it as certain that the hopes raised in India by the courteous and sympathetic hearing accorded by Ministers to the representations recently made by Mr. Gokhale must remain unfulfilled as long as it was possible to represent that certain Indian women were subjected to taxation so severe in its incidence as to make a respectable way of living difficult. He added that, as was generally known,

there was a strong feeling in India against the retention of the tax in any form, whether on men or women.

The Governor-General trusts that Ministers will find it possible to give favourable consideration to these observations.

GLADSTONE,
Governor-General.

Enclosure 2 in No. 8.

MINUTE FROM MINISTERS.

(No. 738.)

Prime Minister's Office, Pretoria, 23 July, 1913.

MINISTERS have the honour to acknowledge the receipt of His Excellency the Governor-General's minute, No. 7/747, of the 21st May last.

In regard to the question of the position of British Indians in the Union under the Financial Relations Act, Ministers would observe that, according to the provisions of sub-section (3) of Section 11 of that Act, the right of appeal is safeguarded only in respect of trading licences existing at the commencement of the Act, and that it will be competent for a Provincial council to frame an Ordinance giving discretion to local authorities or boards or to officers specially appointed, in regard to the issue of licences not in existence at such commencement. So long as a Provincial Ordinance complies with this statutory provision, it will be extremely difficult for the Union Government to interfere in any way, but the Government will, no doubt, continue to use its influence in the direction of discouraging any harsh or vexatious legislation in this respect in the Provinces.

With regard to the £3 licence on ex-indentured Indians in Natal, Ministers would state that a Bill was introduced into the Union Parliament during the last session to repeal this licence in its application to women, but that time did not admit of the measure passing into law.* Ministers regret that they do not see their way clear to propose the abolition of this licence.

There seems to be no doubt that this licence was introduced into and passed by the Natal Parliament on grounds of policy, the object being to limit as much as possible the number of free Indians in Natal. The proposal first made was that the indentures of Indians should expire in India so that they could be repatriated before being freed from their indentures; and it was only because the Indian authorities objected to this provision that the licence was resorted to and adopted as an alternative procedure calculated to achieve the same object. So far as the Union is concerned, the question is peculiar to Natal, and Ministers feel convinced from enquiries made that the reversal of the old Natal policy through the abolition of this licence will meet with very grave objection in that Province.

LOUIS BOTHA.

No. 9.

THE GOVERNOR-GENERAL TO THE SECRETARY OF STATE.

(Received 25 August, 1913.)

(Extract.)

Governor-General's Office, Pretoria, 4 August, 1913.

WITH reference to my despatch of the 18th July,† I have the honour to transmit herewith a copy of a Government Notice which was published in the Union Gazette of the 1st August.

Enclosure in No. 9.

GOVERNMENT NOTICE PUBLISHED IN THE UNION GAZETTE, 1ST AUGUST, 1913.

No. 1185.]

[1st August, 1913.

Regulation Act, No. 22 of 1913, to appoint the following boards for the summary determination of appeals by persons who, seeking to enter or being found within the Union or any Province, have been detained, restricted, or arrested as prohibited immigrants, to have jurisdiction within the areas specified below:—

- (a) To sit at Capetown, with jurisdiction over the whole of the Province of the Cape of Good Hope, including the Transkeian territories, with the exception of the Fiscal Divisions of Mafeking, Vryburg, Kuruman, Gordonias, Hay, Barkly West, Kimberley, and Herbert, and the Magisterial Districts at Matatiele, Mount Currie, Umzimkulu, Mount Frere, Mount Ayliff, Tabankulu, Flagstaff, Bizana, Libode, Lusikisiki, Port St. Johns, and Ngqeleni, in the Transkeian territories.
- (b) To sit at Durban, with jurisdiction over the Province of Natal and the Magisterial Districts of Matatiele, Mount Currie, Umzimkulu, Mount Frere, Mount Ayliff, Tabankulu, Flagstaff, Bizana, Libode, Lusikisiki, Port St. Johns, and Ngqeleni, in the Transkeian territories in the Province of the Cape of Good Hope.
- (c) To sit at Pretoria, with jurisdiction over the Provinces of the Orange Free State and the Transvaal, and the Fiscal Divisions of Mafeking, Vryburg, Kuruman, Gordonias, Hay, Barkly West, Kimberley, and Herbert, in the Province of the Cape of Good Hope.

His Excellency has also been pleased, under sub-sections (2) and (3) of Section two of the said Act, to appoint for a period of six months from the 1st August, 1913, John Truro Wylde, Esquire, Frederick James Centilivres, Esquire, and Clarence Wilfred Cousins, Esquire, to be members of the Board appointed to sit at Cape Town, with the first-named as Chairman of such Board; Percy Binns, Esquire, Maurice Smethurst Evans, Esquire, C.M.G.; and Godfrey Watson Dick, Esquire, to be members of the Board appointed to sit at Durban, with the first-named as Chairman of such Board; Henry Rose-Innes, Esquire, Matthew Robin Greenlees, Esquire, M.A., LL.B., and Montford Chamney, Esquire, to be members of the Board appointed to sit at Pretoria, with the first-named as Chairman of such Board.

No. 10.

MR. M. M. PILLAY to COLONIAL OFFICE.

(Received 30 August, 1913.)

[See No. 12.]

44, Cawood Street, North End, Port Elizabeth,
South Africa, 7th August, 1913.

HONOURABLE SIR,

I HAVE the honour most respectfully to appeal to your high sense of justice in order that you may be pleased to recommend me for a permit to send for my wife, Sajamee, to whom I was legally married in Mauritius on the 14th day of April last, whilst I was on a visit to Mauritius; she came with me to South Africa, and was prevented to land, although I produced an authenticated marriage certificate signed by the Receiver-General of Mauritius.

The Immigration Officer at Cape Town told me that he won't allow my wife to land. I thereupon obtained an interdict against him, and got my wife to land, but he ordered her arrest and was kept in his custody for nearly two months, and my poor wife and son went through great sufferings, and practically starved.

The case was heard before the Supreme Court, and my wife was ordered by the Immigration Officer to leave the country immediately, and she went back to Mauritius on board the "Cluny Castle," on the 26th of July, 1913.

Sir, it's really very hard for a man to put up to such lot of difficulties, the only cause is because I was born an Indian. I therefore appeal to you, and beg you to ask the Government of South Africa to allow my wife to come and reside with me, and to allow my subjects to live apart from his legal

I do not think any Englishman could have stand this cruelty. I pray you to interfere on my behalf, and get my wife to come and live with me.

I have, &c.,
M. M. PILLAY.

My full name is:—
Mardaymootoo Mootooramen. I belong to the Pillay caste.

Enclosure 1 in No. 10.

SUPREME COURT OF S.A.

E.D. LOCAL DIVISION.

MINISTER OF THE INTERIOR *vs.* PILLAY.

(Specially reported for the "E. P. Herald.")

On Wednesday, 25th instant, before the Hon. Mr. Justice T. L. Graham, Judge-President, the Hon. Mr. Justice Sheil and the Hon. Mr. Justice Hutton.

Mardamootoo Pillay, of Port Elizabeth, on 24th May last obtained an order made by Mr. Justice Hutton directing the Immigration Officer at East London to permit Tavamee and Rangasamy, the alleged wife and son of the applicant to land to enable the applicant to produce evidence to the satisfaction of the Chief Immigration Officer that Tavamee and Rangasamy are respectively the applicant's wife and son, or until the further order of the Court. The Chief Immigration Officer now alleged that the applicant was the holder of a permit under Act 30 of 1896, Section 4 (g), returning from Mauritius by the s.s. "Alnwick Castle." In 1897 the applicant had in a sworn declaration stated that he was married, that his first wife had died in Mauritius, that his second wife was alive in Port Elizabeth and that he had two children, one in Mauritius and one in Port Elizabeth. In October, 1912, he made a sworn declaration that he was a widower and he mentioned two sons who did not correspond with those testified to five years before. The woman and boy in question could not fulfil the test as to education required in a European language required by Act 30 of 1906, Section 3 (a), and, as the boy was only claimed as a natural, not a legitimate, son of the applicant and the deponent was not satisfied that he was the applicant's son at all, he refused him permission to land. As to the woman, Tavamee, the applicant admitted that the woman Amaravade, whom he formerly claimed as his wife, was alive, it was not clear that Tavamee's former husband was dead, the applicant did not correspond with the man described in the marriage certificate purporting to certify to his marriage with Tavamee, and the applicant's statements generally were so unsatisfactory that he refused permission for her to land; but he had authorised the local Immigration Officer of Port Elizabeth to grant a temporary permit for her to land, if the applicant produced evidence of leading Indians of Port Elizabeth to show that the applicant was legally free to marry Tavamee, but this the applicant had failed to do.

Mr. S. J. Smith, Immigration Officer of Port Elizabeth, corroborated these statements, and stated that though the woman Amaravade now denied that she was the applicant's wife, she had in a case before the R.M., Port Elizabeth, stated on oath that she was the wife of the applicant.

The Chief Immigration Officer therefore applied for the discharge of the rule granted by Mr. Justice Hutton, with costs.

The applicant stated that he had been married to Kamatchee in Mauritius by Hindu rites, which was not recognised as a legal form of marriage in Mauritius. By her he had two children, one of whom was dead, and the other was Rangasamy, who is the subject of this case. He, the applicant, had lived with women of the name of Amaravade and Maryi at Port Elizabeth, but had not married them even by Hindu rites. In 1912 he had married Tavamee in Mauritius, by Christian rites, and had produced to the Chief Immigration Officer a duly authenticated certificate of marriage. He said that the Immigration Officer must have misunderstood him, as he never stated that he was married to Amaravade. Mr. Theophilus stated that he had not produced the evidence of leading Indians to the Immigration Officer at Port Elizabeth, because that officer gave him to understand that the evidence had to be submitted to the Chief Immigration Officer at Capetown, by which time the vessel would have left the Court's jurisdiction. The affidavits of six Indians of Port Elizabeth were attached, showing that the applicant had lived with, but never married, Amaravade.

There were also replying affidavits by Mr. Smith stating that Mr. Theophilus had misunderstood him, and that the affidavits of the six Indians did not satisfy him that Amaravade was not Pillay's wife, and that he did not consider that any local Indian could refute any statement of marriage of the applicant, though he was prepared to take such evidence. Affidavits of Indians were attached stating that the Indians who testified on behalf of the applicant were not leading Indians at Port Elizabeth.

The Solicitor-General moved that the order granted Mr. Justice Hutton be discharged. So far as the boy Rangasamy is concerned, it is not only doubtful whether he be the applicant's son, but in any case, being admittedly merely a natural son of the applicant, he cannot land under Act 30 of 1896, Section 4 (e). As to the woman Tavamee, the Chief Immigration Officer was quite justified in refusing to believe the applicant's statement that she is his wife, in view of his previous statements that he had a wife in Port Elizabeth. This woman is still alive and in another case swore she was the applicant's wife. If the applicant had placed the facts before the judge who granted the order, the judge would have been satisfied that the

be evidence as to whether a Hindu marriage is recognised by the law of Mauritius. There is also no affidavit from Tavamee to show that she was free to marry the applicant.

Mr. Stapleton, for the applicant, said: The Act 30 of 1906, Section 4 (e), exempts "the wife and any child under the age of 16 years." If legitimate child were intended, it should have been so stated. There is no presumption in our law that child means legitimate child (*see Davies v. Rex*, 1909, E.D.C. 152), and not only does the Act not show that the word should be so restricted, but by the use of the word "any," it gives it the widest signification; moreover, the limitation to the age of 16 shows that children requiring the custody and maintenance of parents, a reason which includes illegitimate children, were referred to. A woman's illegitimate child could not be excluded, and the word "child" cannot have one signification in regard to a woman's child and another in regard to a man's child. Words of general or wide signification must not be restricted in their meaning unless there is something in the language of the statute to justify such a restriction (*see Rex v. Young*, 1911, E.D.C. 231). Even if the applicant's statement is not relied on, there is now ample evidence to show that Tavamee is the lawful wife of the applicant. The woman Amaravade may well have described herself as Pillay's wife, incidentally, in a case merely for decency, but now that the question is put was she actually married to him, she has denied it. The attitude of the Immigration Department is shown by Mr. Smith, where he says no evidence could satisfy him that Amaravade was not Pillay's wife.

The Court ordered that the affidavits made by Pillay in 1907 and 1912 should be produced, also the marriage certificate and other papers, and affidavits from Amaravade and Tavamee furnished. When these were procured the case might be set down for further argument.

Enclosure 2 in No. 10.

SUPREME COURT OF S.A.

E.D. LOCAL DIVISION.

"Herald" Special Correspondent.

On Thursday, before the Judge-President, Mr. Justice Sheil, and Mr. Justice Hutton the following case was decided:—

MINISTER OF THE INTERIOR *vs.* PILLAY.

This was an application to discharge an order of the Court allowing Savamee and Rangasamy, the alleged wife and son respectively of Mardamootoo Pillay, of Port Elizabeth, to land. The matter stood over for the production of affidavits made by the respondent to the immigration officers in 1907 and 1912, and certain documents filed by him with the Chief Immigration Officer; also for affidavits from Savamee and from Amaravade, who was alleged to be the wife of the respondent.

These affidavits of the respondent showed that he had made statements that he had a wife in Port Elizabeth in 1907 and otherwise statements conflicting with those now made. On the other hand the affidavit of Amaravade showed that whilst at that date she was living with the respondent and keeping house for him she had never been married to him either legally or by Indian rites.

Mr. Smith, Immigration Officer, Port Elizabeth, stated that police enquiries had shown that Amaravade was only the reputed wife of respondent.

The Solicitor-General: The onus is on the respondent to show that the woman Sagamee and the boy Rangasamy are his wife and child respectively. The respondent's own statements are wholly unreliable. There are numerous inconsistencies of a vital character in his various affidavits, which he has made no attempt to explain. The documents he relies on in support of his statements do not support him. The marriage certificate shows that Sagamee married one Mardaymootoo Moothooramen—not the respondent. The birth certificate has clearly been tampered with, removing the father's name, but on looking closely at it the informant is stated to be the father and the mark of the informant is that of Permaloo Mardaymoothoo, clearly not the respondent. If these facts had been before Mr. Justice Hutton he would never have granted the original order allowing Sagamee and Rangasamy to land.

Mr. Stapleton (for the applicant): On the question whether Act 30 of 1906, Section 4 (e), includes an illegitimate child in addition to the argument already addressed based on *Rex vs. Davies* (1909 E.D.C. 149) *see Young vs. Rex*, 1911, E.D.L. 231 at 236, and *Money and Eaton vs. Money*, 1911, E.D.L. 241 at 248. It is difficult to see how, in the absence of some express warrant in the language of the Act, the Court could construe the words "any child" so as to exclude, for instance, the illegitimate suckling babe of a woman entitled to land. If the illegitimate child of a woman is included, then it is impossible to construe the same words so as to exclude the illegitimate child of a man. On the facts, the only point upon which the Chief Immigration Officer desired further information was as to whether the woman Amaravade had at any time been the respondent's wife. The admission now made by Mr. Smith settles that question. Sagamee's testimony is not shown to be unreliable and she swears that the respondent is the man referred to in the marriage certificate as Mardaymootoo Moothooramen. She is corroborated by the affidavit of the two Mauritius Indians on the same subject.

The Judge President, in giving judgment, said: This is an application to discharge a rule *nisi* granted by my brother Hutton. We have come to the conclusion, after reading the numerous affidavits filed in the matter, that the application is one which should be granted. There can be no doubt that the respondent is the man referred to in the marriage certificate as Mardaymootoo Moothooramen. She is corroborated by the affidavit of the two Mauritius Indians on the same subject.

made close enquiries into the facts alleged by the petitioner, and it is not surprising, on the facts which were disclosed, that he is not satisfied with the statements which are contained in the various affidavits. The respondent admits, as indeed he is compelled to do, that he made certain statements in earlier affidavits, which differ *in toto* from the statements which he makes in his later affidavits, but he does not give any explanation why he made these false statements, and when he is faced with the contradictions he contents himself with merely admitting that they were false.

The respondent largely supports his application by two documents which are produced by the Immigration Officer. One of them purports to be a certificate of marriage between himself and the woman Sagamee, and the other is stated to be a birth certificate, showing that the boy Rangasamy is his son. I have both these documents before me, and so far from the marriage certificate showing that the respondent married the woman Sagamee, whom he seeks to introduce into South Africa, in the column under the heading of "Names and Surnames," the husband of the woman Sagamee is described as "Marday Mootoo Moothooramen." It is clear from the affidavits that the parties, at the time they are alleged to have contracted this marriage, knew that it was necessary to be married according to the law of Mauritius in order that the marriage should be recognised in this country, and it seems to me a most remarkable thing that the respondent, if he is correct in what he says, should have been married under a name by which he is not recognised and has apparently never borne in this country; so that the marriage certificate does not carry the case much further.

Then, with regard to the birth certificate, the respondent produced a certificate which he alleged is the certificate of birth of the illegitimate child whom he wishes to introduce. In this certificate there is a column in which the name and surname of the father and mother of the registered infant is given. Strangely enough, the father's name in that column is missing. The document has evidently been mutilated. I am inclined to think that the Immigration Officer is correct when he says that the document bears the impression of having been deliberately mutilated; it does not affect its purpose, because in the same document there is a column in which the name and surname of the informant must be inserted, and in this column it is stated that the father was the informant, and the document contains the signature or mark of the informant, who is described as "Permaloo Mardaymoothoo," which certainly does not correspond with the name of the respondent in this case, either that given in the marriage certificate, or that by which he is known in South Africa. We think that these documents are of such a suspicious character that it is clear that if they had been disclosed at the time the application was made the rule would never have been granted.

With regard to the further point which has been raised by Mr. Stapleton, that under the Immigration Act 30 of 1906 "children" includes illegitimate children, it is really not necessary for us to give a decision, because on these affidavits it is impossible to decide whether the child sought to be introduced is a child, legitimate or illegitimate, of the respondent. We think that the rule should be discharged with costs. Of course, this order will not prevent the Immigration Officer from allowing this woman to remain at the detention depôt in Capetown in the event of his thinking it necessary to make further inquiries.

No. 11.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 6.52 p.m., 10th September, 1913.)

TELEGRAM.

[Answered by No. 18.]

Am requested by Indian named Mahomed Cassim Coovadia, of Durban, to communicate by cable following to you, Secretary of State for India, and Viceroy and Governor-General of India, through India Office:—

"Mass meeting of British Indians held under auspices of Natal Indian Congress emphatically protests against harsh working of Immigrants Regulation Act hitherto revealed, which is contrary to promises repeatedly given, as (a) fifty per cent. already domiciled declared prohibited under its working; (b) people with domiciled certificates who could have entered country without difficulty under old Act put to unnecessary delay, trouble, heavy expenses; (c) fixing £26 deposit from prohibited [immigrants] seeking appeal acts very oppressively on [those] already domiciled, and want of it has been cause of sending back to India rightfully domiciled people temporarily absent, which is equivalent to depriving them of vested rights and inauguration of slow, sure process of elimination. Meeting appeals Imperial and Indian Government to use good offices protect us from this un-British, autocratic legislation by advising Crown to exercise Royal prerogative of vetoing measure within twelve months from promulgation."

Assume you will arrange for transmission to India Office and Viceroy. Have

No. 12.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

MY LORD,

Downing Street, 20 September, 1913.

I HAVE the honour to transmit to Your Excellency, for the information of your Ministers, printed copies of a letter* from M. M. Pillay, an Indian, of Port Elizabeth, asking for assistance in obtaining a permit to enter South Africa for his wife, to whom, he states, he was married in Mauritius.

2. I request that you will cause the writer to be informed that I cannot interfere with the decisions of the South African Courts. The newspaper extracts accompanying his letter, which are enclosed herewith, should, at the same time, be returned to him.

I have, &c.,

L. HARCOURT.

No. 13.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 2.40 p.m., 22nd September, 1913.)

TELEGRAM.

In reply to letter communicating sense of your despatch of 14th August,† Prime Minister informs me that, despite Section 5 (g) of Immigration Act, Government of Union of South Africa are fully prepared to carry out promise made by Fischer to which you refer. This assurance, however, he makes subject to reservation, in view of continual threats by Indian community of reopening passive resistance movement, that if such movement is re-started Government will have to reconsider its policy of making that section of the community any concession whatever outside provisions of existing laws.—GLADSTONE.

No. 14.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 4.30 p.m., 3rd October, 1913.)

TELEGRAM.

[Answered by No. 18.]

Have received telegram from Chairman of Meeting of Anjuman Islam Durban held 1st October requesting me to inform you and Secretary of State for India that meeting protests strongly against failure of Government to carry out spirit and letter of undertaking in provisional settlement of 1911, and approves of Cachalia's letter† announcing resumption of passive resistance until specified grievances are remedied. Meeting congratulated pioneers of passive resistance movement, urges Government of Union of South Africa to grant redress, and requests Imperial and Indian Governments to use their influence to that end.—GLADSTONE.

No. 15.

SOUTH AFRICA BRITISH INDIAN COMMITTEE to COLONIAL OFFICE.

(Received 8 October, 1913.)

[Answered by No. 27.]

SIR,

3, Middle Temple Lane, E.C., 6th October, 1913.

ON behalf of my Committee I am desired to draw the attention of the Secretary of State for the Colonies to the fact that the Indian community in South Africa have been compelled to resume passive resistance owing to the unreasonable attitude of the Union Government.

The Immigrants Regulation Act, 1913, has actually increased the hardships of the Indians instead of alleviating them. The following points will show the nature of the grievances alluded to:—

- (1) The right of residence in Natal of the Indians indentured after 1895 seems to be taken away by the new definition of the term "domicile."
- (2) The right of residence of such parents' children is also taken away even though they may be born and brought up in Natal.
- (3) The right of South Africa-born Indians to enter the Cape by virtue only of their South African birth seems to be taken away.
- (4) The marriage amendment leaves the status of non-Christian wives, married in South Africa, in the position in which the Searle judgment leaves it.
- (5) The Free State Clause appears to subject an Indian immigrant, allowed to enter under the Act, to the necessity of having to make the special declaration required by the old Free State Ordinance, which is entirely superfluous, and which is not required to be made by non-Asiatic immigrants.
- (6) The promise that the £3 poll tax should be repealed has not yet been fulfilled.
- (7) The status of non-Christian wives generally.

In regard to these Clauses, my Committee has already made representations to the Under-Secretary of State. The few instances that have already occurred strongly bear out our complaint that the new legislation deprives the Indians of rights heretofore enjoyed by them. For instance, the case of Kulsan Bibi. In August last she applied to enter the Union as the only lawful living wife of Mahboob Khan. The Immigration Officer having rejected her claim, the matter was heard by the Board of Appeal on August 18th last. The Board found the facts as follows:—

- "(1) That Mahboob Khan and Kulsan Bibi were duly married in India according to Mahomedan law, and that it was a legally valid marriage."
- "(2) That Kulsan Bibi is the only lawful living wife of Mahboob Khan, and that her marriage to him was contracted when he was a widower, and that he has not since gone through a ceremony of marriage purporting to be legal with any other woman."

On these points my Committee are of opinion that she should have been allowed to enter the Union under the provisions of the new Act, Section V., Clause (g). The meaning and effect of the Section, as explained by the Union Government, would appear from the following extract of a letter dated 19th August, 1913, from General Smuts to Mr. Gandhi:—

"The present practice of admitting one wife of an Indian now entitled to reside in any Province or who may in future be permitted to enter the Union, irrespective of the fact that his marriage to such wife may have been solemnised according to tenets which recognise polygamy or that she is one of several wives married abroad, will be continued so long as she is his only wife in South Africa."

In direct violation of this assurance, not only did the Immigration Department refuse her admission, but raised the question that "the mere fact that her marriage was celebrated under a law which allowed four wives, her marriage was not monogamous." The Pietermaritzburg Court has given effect to the contention and has decided that no marriage can be regarded as monogamous which has been celebrated according to the rites of any religion tolerating polygamy.

The predicament created by this decision is intolerable and my Committee feel that the extraordinary attitude of the Union Government in regard to the status of Indian wives married in accordance with Mohammedan and Hindu laws is likely to arouse intense resentment throughout India.

Further, the new Act is being administered with great rigour. Any person who wishes to appeal against the order refusing admission of the Immigration Officer is required to deposit £26. This sum is in some cases quite prohibitive and certainly is needlessly excessive. Several cases have recently occurred in which Indians, on their return from India, have been refused admission on the ground that they are not

is retrospective, and thereby an attempt is being made to deprive the certificate-holders of their vested rights. Cases involving the determination of the question as to whether the new Act is retrospective or not are pending in the Superior Courts.

Again, several cases have arisen in which the immigration authorities contended that the Indians had lost their domicile by reason of absence from South Africa for varying periods of time. In view of the fact that Section 30 of the Act prescribes no period of time, and distinctly exempts persons who leave the Union for a special or temporary purpose, the attitude of the authorities in refusing re-entry to the Indians after their visits to their family members at home is, in the opinion of my Committee, unjust and cruel in the extreme. The proceedings before the Board of Appeal always entail great expense and trouble.

My Committee invite the attention of His Majesty's Government to the following news from India. "The Bombay Chronicle" says:—

"It is inconceivable that the Imperial Government will maintain a *non possumus* attitude in face of this latest atrocity." (Sentence passed on Indians crossing the Transvaal border from Natal.) "Unless all confidence in the power of the British Government to protect Indian subjects is to be destroyed hopelessly and permanently, Lord Crewe had better wake from his lethargic attitude and deal promptly, fearlessly, and firmly with this outrage."

My Committee understands that sixteen Indians, numbering four women, have been sentenced to three months' imprisonment with hard labour. Included in these are the wife and son of Mr. Gandhi and Mr. Parsee Rustomjee. Mr. Parsee Rustomjee is one of the most respected members of the Parsee community. The Committee has learned with profound regret that the Administration treated him with unnecessary harshness, inasmuch as he was deprived of his sacred thread and shirt, and they tried to compel him, as well as other Indian passive resisters, to undergo vaccination. It was only after these passive resisters resorted to fasting that the sacred garments were restored and vaccination not insisted upon.

My Committee earnestly hope that His Majesty's Government will make immediate representations to the Union Government with a view to the speedy release of the passive resisters and to bring about an early settlement of the grievances of the Indian community, and specially those relating to the status of Indian wives married according to Hindu and Mohammedan laws *inside or outside* the Union.

I have, &c.,

BHINGWANDIN DUBE,

Hon. Secretary,
p.p. M.E.P.

No. 16.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 7 October, 1913.)

(Extract.)

Governor-General's Office, Pretoria, 18 September, 1913.

I have the honour to acknowledge the receipt of your despatch of the 14th August,* forwarding copies of various minutes and letters on the subject of the Immigration Act.

Ministers have as yet made no statement to me with regard to the negotiations which have been proceeding between the Department of the Interior and Mr. Gandhi, but without further warning Mr. Cachalia addressed to the Department, and simultaneously communicated to the Press, a letter announcing the decision of the Indians to have recourse to passive resistance. I enclose a copy of that document, as printed in the "Rand Daily Mail" on the 15th instant. In this connection I may call attention to the attached copies of reports† published in the Press this morning to the effect that a party of 16 Indians, including four women, crossed the Natal Border into the Transvaal last night and are being detained at Volksrust pending the receipt of instructions from the Immigration Department.

Enclosure 1 in No. 16.

EXTRACT FROM THE "RAND DAILY MAIL" DATED SEPTEMBER 15TH, 1913.

IMMIGRATION ACT.

MORE PASSIVE RESISTANCE: INDIANS' UNION CAMPAIGN. "WOMEN AS WELL AS MEN."

The following letter was addressed by Mr. A. M. Cachalia, chairman of the British Indian Association—an association representing all classes and creeds of British Indians in South Africa—to the Secretary of the Interior, under date August 12* :—

Sir,—On behalf of the British Indian Association, I have the honour to submit, for the information of the Honourable the Minister, that, after having read your telegram of September 9, addressed to Mr. Gandhi, it has been most reluctantly and with the utmost regret decided to revive passive resistance owing to the inability or unwillingness of the Government to concede the points submitted by Mr. Gandhi in his letters to you, which my Association has seen.

I venture shortly to explain the position that unfortunately faces the community represented by my Association.

Ever since the British occupation the position of the Indians residing in this Province has admittedly grown worse than it was during the Republican regime. In 1906 it culminated in the Bill of that year, which not only summed up the black past but foreshadowed a blacker future, and which, though then vetoed, was re-passed almost as the first Act of the responsible Government, and became known as Act 2 of 1907. As the measure was considered by the community to be humiliating, and as the circumstances surrounding it showed a policy deliberately hostile to an honourable existence of the community in the Transvaal, my countrymen solemnly decided in the month of September, 1906, to adopt passive resistance. As is well known, over 3,500 imprisonments were suffered by my countrymen during the struggle, over 100 deportations to India took place, and even two deaths occurred, owing to the suffering gone through during the crisis. Several families were rendered homeless, and they had to be supported from public funds. Then came the provisional settlement of 1911, which the Indians thought not only promised them what they had been suffering for but also meant an attitude of friendliness towards them such that, almost complete prohibition of Indian immigration being obtained, the resident Indian population would be free from the state of uncertainty it had lived in and might look forward to a steady improvement in its status, as a permanent element of the new nation that was forming in South Africa. Moreover, the inauguration of the Union gave it some hope, though it filled it equally with misgivings and threw on the passive resisters a responsibility for the whole of the Union instead of for the Transvaal only.

But the community was soon disillusioned. The administration of existing laws specially affecting it grew steadily harsher. The Cape Licensing Act, the Natal Licensing Act, the Gold and the Township Laws of the Transvaal and the existing Immigration Laws of the Provinces began to be administered as they never had been before. What has been termed the "northern" spirit began to pervade the administration in Natal and the Cape. Thus the spirit of the settlement certainly began to be broken as soon as it was effected.

The abortive Bill of 1912 showed that even the letter would be broken. The original draft contained serious flaws and was in conflict with the two principles of the settlement—the removal of the racial bar and the maintenance of existing rights throughout the Union. I must admit in fairness that, so soon as the defects were pointed out, there was a willingness on the part of the Minister to remodel his objectionable clauses. But that Bill fell through, and fresh assurances were issued to the community that the settlement would be carried out.

Then came the memorable visit of the Honourable Mr. Gokhale. High hopes were again raised. The position was made perfectly clear. And declarations were made by responsible statesmen inducing the expectation that a satisfactory Bill would be passed during the ensuing session, and that the iniquitous and admittedly unjust tax of £3 on certain ex-indentured men and women would be withdrawn. The Honourable Mr. Gokhale declared at public meetings that he had every confidence that the tax would be abolished both for men and women.

But the last session dashed all hope to the ground. The draft Immigration Bill broke almost every condition of the settlement of 1911, and it showed that the community was to expect nothing from the Government, who would have carried the Bill as it was, could they have done so. That the Act itself is a great improvement on the original Bill is due entirely to the unexpected opposition that the Government met from all quarters of both Houses of Parliament. The attempt of the Government to remit the £3 tax only on women showed also that they, at any rate, were not prepared to remove it from men.

Notwithstanding such gloomy indications of the hostile spirit of the Government, Mr. Gandhi was authorised to enter into negotiations for a settlement by submitting proposals which, if accepted, would have just, but only just, sufficed to fulfil the letter of the provisional settlement of 1911 above referred to. The community had hoped that, if even such a settlement were effected, the terrible passive resistance could be avoided, and that other grievances could be pressed on the attention of the Government by means involving less personal sacrifice and suffering by the community.

But the Government evidently thought otherwise. They have not only rejected most of Mr. Gandhi's proposals, but they are showing, by their administration of the new Act in Natal and by their having passed regulations under the Act, some of which are harsh and unjust, that it is their desire not only to keep out new immigrants, but also to keep out domiciled residents who, before the new Act, found no difficulty in re-entering, and to put obstacles in the way of wives of domiciled Indians entering the respective Provinces.

In the circumstances there is now no course left open to the community but to take up passive resistance again, which now naturally will not be confined to this Province alone, and which, on this occasion, will be taken up by women as well as men. The leaders of the community fully realise their responsibility in the matter. They know also what they and their countrymen will have to suffer. But they feel that, as an unrepresented and voiceless community which has been so much misunderstood in the past and which is labouring under a curious but strong race prejudice, it can only defend its honour and status by a process of sacrifice and self-suffering.

Passive resistance has been recognised by the Government as a legitimate means of securing redress. It is, therefore, hardly necessary to assure the Government that the community has no desire to defy the laws of the land, to which it will submit by bearing the penalties provided for a breach of the obligations thereunder which the community cannot discharge consistently with its honour and self-respect.

In conclusion, I beg to state that the struggle will be continued so long as

- (1) A racial bar disfigures the Immigration Act ;
- (2) The rights existing prior to the passing of the Act are not restored and maintained.
- (3) The £3 tax upon ex-indentured men, women, and children is not removed ;
- (4) The status of women married in South Africa is not secured ;
- (5) Generally, so long as a spirit of generosity and justice does not pervade the administration of the existing laws referred to herein.

And it is respectfully submitted that a smooth and just working of the laws is not possible until the Government consult the leaders of the community in the different Provinces.

No reply has been received to the above letter.

No. 17.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 6.34 p.m., 8th October, 1913.)

TELEGRAM.

[Answered by No. 28.]

Have received telegram from Chairman of meeting of Anjooman Durban, held 2nd October, requesting me to inform you and Secretary of State for India that meeting deeply regrets decision of Supreme Court* that single Indian marriages lawfully celebrated according to religious rites are not protected under Immigration Act. States Court has in effect condemned ninety-nine per cent. of Indian marriages, which are as fully monogamous as European marriages. Meeting protests against bad faith of Government in raising question, in view of official adoption of amendment to Immigration Bill designed to protect such marriages, and regards action, which wounds religious susceptibilities of all Indians, as further justification for passive resistance.—GLADSTONE.

No. 18.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

(Sent 5.40 p.m., 9th October, 1913.)

TELEGRAM.

[Answered by No. 45.]

Your telegrams 10th September and 3rd October.† Working of Immigrants Regulation Act. Should be glad to receive observations of Ministers. Please inform them that I much regret resumption of passive resistance movement under existing circumstances, but earnestly hope that this ill-advised action on part of small number of Indians will not induce Union Government to abandon liberal policy as to entry of wives of Asiatics, laid down in your telegram 22nd September.‡—HARCOURT.

No. 19.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 14 October, 1913.)

[Answered by No. 33.]

SIR,

Governor-General's Office, Pretoria, 25 September, 1913.

I HAVE the honour to transmit to you herewith a copy of a letter from the Secretary, Cape British Indian Union, Cape Town (with enclosure), dated 18th

* See Enclosure 7 in No. 26 and Note to No. 26 for judgement referred to.

September, relating to resolutions passed by a meeting of the Cape British Indian Union on the subject of the grievances complained of by that community.

I have, &c.,
GLADSTONE,
Governor-General.

Enclosure in No. 19.

The CAPE BRITISH INDIAN UNION to the GOVERNOR-GENERAL.

Miller's Buildings, 67, Hanover Street, Cape Town,
18th September, 1913.

MY LORD,

I AM directed by the Cape British Indian Union to forward to you the enclosed resolutions passed by a recent meeting of this Union together with a statement of some of the grievances which the Indian community have against the present Government of the Union of South Africa.

I am also directed to ask your Lordship to transmit to the Imperial Colonial Office a copy of these resolutions and statement of grievances, and I am to thank your Lordship in anticipation for the earnest consideration which you will give to this matter.

I am, &c.,
B. DESAI,
Secretary.

His Excellency the
Governor-General for
South Africa.

IMMIGRATION ACT: CAPE INDIANS' PROTEST.

The Reuter South African Press Agency learns that a special meeting of the Cape British Indian Union was held last night, to consider the Immigration Act in its relation to British Indians, when the following resolutions were passed unanimously:—

- (1) That this meeting of Cape British Indians records its deep disappointment at the issue, by the Union Government, of instructions to the effect that all Asiatics not domiciled in South Africa are deemed unsuitable, and are to be excluded therefrom as prohibited immigrants, and its sense of grave anxiety for the community. It further records its strongest protest against this treatment of members of the British Empire and this despotic use of the provisions of the Immigration Act of 1913.
- (2) That this meeting protests most strongly against the appointment to the Immigration Board of the Chief Immigration Officer, thus making him judge of his own department, and would ask that the Governor-General should appoint some third independent member of the said Board.
- (3) That the secretary be and hereby is authorised to forward these resolutions, together with a statement of the more serious grievances the Cape British Indian community labours under, to the Governor-General, to the Colonial Office, and to the Government of the Union of South Africa.

Mr. E. Norodien presided, and said the Indian community had looked forward to the long-talked-of Immigration Act as a means of redressing their grievances, instead of which they found that it afforded their people no measure of satisfaction at all. They had thought that the regulations to be framed by the Minister would lighten their burdens, but they had not done so. Let them take, for instance, the appointment of the Immigration Board. To two of those appointments, as independent gentlemen, they took no exception whatever, but to the third appointment they most decidedly did. Look at it in whatever way they would, it could not but cause disappointment. The third seat on the Board had been conferred on the Chief Immigration Officer. Now the Board was instituted for the express purpose of appealing against any decision of any Immigration Officer which was not considered just. Did it not appear a most unseemly thing to place any man in the position of judge in his own case, for that was what this amounted to? It was unfair to the Chief Immigration Officer himself, and placed him in an invidious position, and could not fail to cause uneasiness in the minds of immigrants.

Proceeding, the President touched upon the Indian marriage registration question. The Union Government had assured them that the certificate of the Magistrate of the district from which she came, to the effect that she was lawfully married, should be held

It was, furthermore, provided that he (the officer) might liberate the man on bail, upon someone becoming responsible for him, and with surety in the sum of anything from £10 to £100. What they said was that it was unfair to place such wide discretionary powers in the hands of the Immigration Officer, and that there should be a fixed limit for bail beyond which he could not go, and they would fix the limit at £25. The whole measure was unsatisfactory, and the Indian community was driven to the necessity of appealing to the Imperial Government and to ask them, if they could not or had not the power to see their own subjects righted, that they should confer self-government on India and give that Government the power to protect its own people.

No. 20.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 14 October, 1913.)

Governor-General's Office, Pretoria,
25 September, 1913.

SIR,

I HAVE the honour to transmit to you herewith, with reference to my telegram of 22nd September,* copies of correspondence with the Prime Minister, on the subject of the entry into the Union, under the provisions of the Immigrants Regulation Act, 1913, of wives of Indians lawfully resident.

I have, &c.,
GLADSTONE,
Governor-General.

Enclosure 1 in No. 20.

The GOVERNOR-GENERAL to the PRIME MINISTER.

(No. 15/463.)

Governor-General's Office, Pretoria,
10 September, 1913.

MY DEAR PRIME MINISTER,

I LEARN from the Secretary of State that the Government of India are exercised as to the possible effect of Section 5 (g) of the Immigration Act, which, as finally amended, exempts from the list of prohibited immigrants "the wife or child of a lawful and monogamous marriage duly celebrated according to the rites of any religious faith outside the Union." They observe that it would appear very doubtful whether any marriage of a Hindu or a Muhammadan can be correctly described as "monogamous" even if the Hindu or Muhammadan concerned has only married one wife, and they are apprehensive that the effect of the words quoted above, which were inserted during the passage of the Bill through Parliament, might be to impose a fresh check upon the admission of wives and children of Hindu or Muhammadan residents in South Africa, should it be considered that the acceptance of the amendment in any way overrode the undertaking previously given in the letter which Mr. Fischer addressed to me on the 24th April as to the administrative policy of Ministers in this matter. That undertaking was expressed in the following terms:—

"The Government has told the Indian community that, notwithstanding that judgment" (i.e., the judgment of Mr. Justice Searle in the case of *Esop versus the Minister of the Interior*)† "it will still allow one wife per man in as before, so long as she really is his wife, whether she has been married by a custom which recognises polygamous marriages or not."

A similar assurance was given by Mr. Fischer in Committee of the House of Assembly.

Mr. Harcourt is aware that the amendment inserting the words in question was accepted to meet the Indian point of view, and, of course, he relies on Mr. Fischer's assurance. As, however, the matter is one of great importance in India, he has asked me to obtain from Ministers a statement that Mr. Fischer's undertaking may be regarded as unaffected by the amendment and that it continues in force.

I shall be much obliged if you will be so good as to enable me to give an assurance in this sense.

Believe me, &c.,
GLADSTONE.

Enclosure 2 in No. 20.

The PRIME MINISTER to the GOVERNOR-GENERAL.

Prime Minister's Office, Pretoria,

20th September, 1913.

MY DEAR LORD GLADSTONE,

I AM sorry that, owing to the inconvenience caused by the recent move of my office into the Union Buildings, your letter, 15/463, of the 10th instant, has not been replied to earlier.

I should be very glad if you would inform Mr. Harcourt that, despite the wording of Section 5 (g) of the Immigrants Regulation Act, the Union Government, subject to what I say below, is fully prepared to carry out the promise which Mr. Fischer made in the matter of allowing individual Indians lawfully resident in any Province of the Union to bring in one wife, so long as she really is the applicant's wife, whether she has been married by a custom which recognises polygamy or not, and to adhere to the administrative practice which has been adopted for some considerable time past in regard to this matter.

I would, however, like to say that the leaders of the Indian community are continually threatening the Government with a re-opening of the passive resistance movement, and, of course, if such a movement is re-started the Government will have to reconsider its policy of making that section of the community any concessions whatever outside the provisions of the existing laws.

Believe me, &c.,
LOUIS BOTHA.

His Excellency,

The Right Honourable

Viscount Gladstone, P.C., G.C.M.G.,

Governor-General,

Pretoria.

No. 21.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 14 October, 1913.)

(Extract.)

Governor-General's Office, Pretoria,

25 September, 1913.

With reference to my despatch of the 18th instant,* the enclosed newspaper extracts may be of interest.

As regards the sixteen Indians who, as I reported last week, crossed the Natal border into the Transvaal, I understand that the Government did not intend to prosecute them, but simply to put them back across the border, and if they re-entered to repeat the process indefinitely. It appears, however, from the second and third extracts enclosed herewith that the Indians have succeeded in forcing the Minister's hand, and have been sentenced to imprisonment pending removal.

No other cases of action taken by Indians with a view to passive resistance have as yet come to my knowledge.

Enclosure 1 in No. 21.

Extract from "TRANSVAAL LEADER," dated September 19th, 1913.

THE INDIAN QUESTION.

The threatened revival of passive resistance on the part of the British Indians will not take place for want of reasonable concessions offered or carried out by the Government. In fact, so much was arranged between the two parties that the points on which rupture has finally occurred seem comparatively unimportant. These points were two—those of the inter-Provincial movement of South African-born Indians and the status of wives belonging to domiciled Indians. The difficulty as to the latter arose out of the Searle judgment, wherein it was laid down that a woman, whether a sole wife or not, who was married under rites which recognised polygamy or were part of a polygamous system was before the law of this country no wife. Consequently, domiciled Indians, if they bring to the ports of this country any wife

made so under a polygamous sanction, cannot claim that the Immigration Officer shall permit her to land. This ruling of the Court seems harsh, but it is noteworthy that it merely defines the status of the polygamous wife, while leaving the question of administrative action open. According to the law of the Union (said Mr. Justice Searle) she is no wife, and the husband so-called cannot demand her admittance as such. But it is not laid down that the Immigration Officer is bound to send her back. He simply has the right to do so, if he chooses, notwithstanding the law that permits the privilege of entrance to the wives of domiciled Indians. The case being as stated, the Government has instructed the Immigration Officers to grant entrance to any woman representing herself as the wife of a domiciled Indian, and so acknowledged by him, provided there exists no reason to suppose that he has any other wife in this country.

But the Government has gone further. In order that the Indian womanhood of South Africa may be spared degradation in the eyes of the law to a state of concubinage, the Government has offered to Hindu Indians the same relief which, by an Order-in-Council of Queen Victoria, was made available for Mahomedans—they may have their own marriage officers of their own faith, and the marriages performed by these, when duly registered, will count as valid under the law of the Union. This concession has never been availed of by the Malays of the Cape, who, it is stated, have a superstitious objection to the registration of marriages; they dislike any record other than the testimony of living witnesses. What the precise objection of the Hindu Indians is does not appear; but it seems they have some peculiar scruple, in deference to which it is demanded by Mr. Gandhi and his friends that the Government shall actually introduce a Bill modifying the system of Christian monogamy which is the basis of our marriage law, and giving a direct and complete recognition to polygamous unions. That we shall tolerate a system which has proved a curse in every country that practises it is, apparently, not enough; we are asked to give it equal place of honour and of right on the page of our law-book with that which we accord to the union of one woman with one man. Because our Government refuses, there is to be a revival of "passive resistance," fixing on it the stigma of persecution and investing the Indians with the aureole of martyrs; besides which, hints are incidentally thrown out of trouble in India, and consequent serious embarrassment to the Imperial Government.

The other point on which the rupture took place related, it is believed, to the inter-Provincial movement of Indians. Previous to the passing of the Immigration Bill of last session the Cape and Natal were open fields to the entrance of domiciled Indians, whereas there an examination has now to be passed. Mr. Gandhi states, so far with perfect correctness, that the new law takes away a right which was formerly enjoyed. But the test imposed is of the lightest—lighter considerably than an Englishman coming direct from England may be required to satisfy at the ports of either of these Provinces. All that is asked of the domiciled Indian is that he shall correctly write out his application to enter in any European language which he knows. He must be very destitute of the education which is necessary in an English-speaking country if such a requirement beats him. An Indian who is to that extent illiterate can hardly complain if his South African residence is limited by law to the Province in which he happens to be domiciled, and if other Provinces decline to receive him. It may be recalled that in the debates in the House of Assembly on this question some of the Natal members revealed very plainly the reason for which they wished that there should be no test. The pressure of the Indian population in Natal was such, they said, as to be a menace to that Province, and they begged of the Cape to relieve the situation by accepting a big overflow into its own area. It is amazing that, with the position represented in that light, these members were content with the putting up of a barrier no stiffer or higher than that which has been described. So that, while Mr. Gandhi truthfully says that the Act of last session takes away a pre-existing right, the new restriction which it imposes on inter-Provincial movement is not such as to affect any domiciled Indian who could reasonably claim that his removal to another Province would constitute a desirable addition to its population. And if the law takes away, or rather circumscribes, a previous right, it entirely removes that racial discrimination against the Indian as such which Mr. Gandhi used to describe as the great blot on the old legislation of the Transvaal, and which he gave us to understand was the real cause of the aforetime "passive resistance." Mr. Cachalia asserts, in his letter of the 12th inst. to the Minister of the Interior, that the racial bar disfigures the present Immigration Act, but he indicates no place in that Act where one may find it. There is a racial bar up to a point, but it is not in the Act; it is in the administration, where the Government removed it on the definite request of the passive resisters.

There were two other points, we learn, on which the negotiations between the Government and the British Indians turned, but they call for little comment, seeing that agreement was arrived at in regard to them. Both sides were at one on the definition of the word "domicile," the Government assenting to Mr. Gandhi's view that the years in which the £3 tax was paid by Natal Indians should not be deemed years of "conditional" residence, but should count for the purpose of domicile. The Natal law is that the years during which an Indian has only a conditional right of residence—for instance, that he fulfils an indentureship—cannot be reckoned for the purpose above named. There was the difficulty in the case of the highly-educated Indians to be admitted from time to time under special permit that the law of the Free State required them to sign a declaration on its border (should they desire to cross over), under which they engaged themselves not to embark in any trade. This difficulty is got over by adding the declaration to the form which they sign on landing from the ship, and thus, if they choose to pass into or through the Free State, their journey is not obstructed. In Mr. Cachalia's letter a cause of quarrel is found in the £3 poll tax to which ex-indentured Indians and their children above 16 are liable in Natal. This tax, it may be stated, the Natal Administration does not collect with any great strictness, but still the persons described are liable. They cannot, however, be deported for non-payment, nor is there any other penalty directly attached to the omission as such. What happens in practice is that they undergo a

fine of 15s. or £1 as "a contempt" if they ignore an order of the Court directing them to pay. Without doubt a tax of £3 operates oppressively as imposed on the bulk of the Indian women, and for that reason the Government is not collecting it from women. There exists less reason to protest against it in the case of the men, who have greater earning power. Both the men and the women, when they contracted their indentures, signed an undertaking to pay the tax after their term expired as the price of their remaining in South Africa, should they not choose to return to their country of origin. But there is this to be added: The abolition of the £3 tax was no part of the compact between the Government and the British Indians in 1911, on the ground of which the latter desisted from passive resistance. If they are sane men, their wise course is to accept the concessions and the relief which the Government and the new Act offer them, submitting, as an off-set thereto, to the small limitation now imposed on their former, but little used, right of inter-Provincial movement. Considering how alien they are to us in speech, blood, religion and type of civilisation, and the economic danger to our own race that their presence spells, the new Act makes some substantial concessions. For the rest, as Mr. Gokhale suggested, they are entitled to expect the gradual amelioration of their legal status, including the abolition of the £3 tax. But such amelioration will quickest come through a sustained attitude of respectful petition and remonstrance, combined with entire obedience to the laws.

Enclosure 2 in No. 21.

EXTRACT from "TRANSVAAL LEADER," dated September 23rd, 1913.

INDIAN PASSIVE RESISTERS: BORDER RECROSSED.

LETTER TO IMMIGRATION OFFICER.

The following is a copy of a letter sent by the Indian passive resisters detained at Volksrust to the Chief Immigration Officer at Volksrust:—

Volksrust, September 21, 1913.

SIR,—My fellow passive resisters and I have been stopped by you from continuing our journey to Johannesburg, since Tuesday, the 16th instant. I told you then that if you wished to detain or arrest us, you could do so only by keeping us in prison, as we did not desire to remain in Volksrust with friends, however insistent they might be to accommodate us. But you told us that you had not sufficient room at the police station for such a large party as ours, and that therefore you would rather that we remained out, pending the receipt of instructions from the Government. We have waited, it would be admitted, long enough to enable you to receive your instructions. On my telling you on Friday that if you could not keep us under custody the party will consider itself free to proceed to Johannesburg, you informed me that you would prevent it from so doing, and that, yet, you could not keep us in custody until you had heard from the Government. I beg, therefore, now to inform you that unless you take charge of the party we shall entrain for Johannesburg on Monday by the Kafir mail, and if you offer physical resistance at the time, as passive resisters we can only yield to it. But if you set us free afterwards and do not hold us bodily we shall seek some other means of continuing our forward journey.

On behalf of myself and party, I remain, yours obediently,

CHHAGANLAL.

The following telegram was received in Johannesburg from the Indians at Volksrust yesterday:—

"Deported; recrossed; taken Charge Office, then police camp. Trial to-morrow morning."

Enclosure 3 in No. 21.

EXTRACT from "RAND DAILY MAIL," dated September 24th, 1913.

PASSIVE RESISTERS SENTENCED.

Volksrust, Tuesday.

Sixteen passive resisters appeared before the Magistrate this morning charged under Section 6, paragraph 1, of the Immigration Act 22, of 1913. They all pleaded guilty, and were undefended. Four of them are women. They had no questions whatsoever to ask. The case created a great stir among the local Mahommedan merchants, most of whom were present in Court. They were sentenced to three months' with hard labour, each pending removal, which means that the Immigration Department has the right to deport them at any time during the term of the sentence.

No. 22.

LONDON ALL-INDIA MOSLEM LEAGUE to COLONIAL OFFICE.

(Received 16 October, 1913.)

[Answered by No. 35.]

SIR,

41, Sloane Street, S.W., 15th October, 1913.

I AM directed by the Committee of the London All-India Moslem League to solicit the earnest consideration by the Right Honourable the Secretary of State for the Colonies of the condition of British Indians in South Africa, a condition not only intolerable to the people concerned but also prejudicial to the best interests of the Empire.

2. Speaking with the fullest sense of responsibility, the Committee consider the treatment meted out to His Majesty's Indian subjects in the majority of the South African Colonies little short of persecution.

3. The Committee do not wish to occupy Mr. Secretary Harcourt's time by enumerating the fresh acts of oppression, which, committed under the cover of laws framed with the more or less avowed object of driving out of the Colonies the British Indians resident or domiciled in those parts, have forced the sufferers to take to "passive resistance," as his attention has been prominently called to them from other quarters. But they feel it their duty to state that a recent decision of one of the South African Courts regarding the recognition in the Colonies of a Hindoo or Mohammedan marriage solemnised outside the Colonies has filled them with amazement.

4. The Committee understand the effect of the judgment to be that if a Mussulman subject of the King domiciled in the Colonies—in the case in question he was domiciled in Natal—were to contract a marriage in India in conformity with the rites of his religion, his wife, though lawfully wedded according to his personal law and who would be recognised as such in every civilized State, could not be permitted to enter South Africa (barring perhaps Cape Colony) because, forsooth, the country where the marriage was solemnised permits of polygamous unions, although admittedly she was the sole wedded wife of the man.

5. The Committee have not before them the text of this extraordinary judgment, which appears to have applied a dictum enunciated in a case of a totally different nature to the construction of a rule in the Natal Immigration Act.

6. Mr. Secretary Harcourt, the Committee feel assured, will realise the effect of this decision on the minds of the Mussulmans of India; they will regard it as an indirect attack on their religion, the full enjoyment of which has been solemnly guaranteed to them in every part of the British dominions. And the cumulative result of these acts of harshness, repression, and virtual persecution will be to intensify the prevailing resentment to the detriment of Imperial solidarity.

7. The Imperial Government is the custodian of the general interests of His Majesty's subjects; the Empire of England is not inhabited exclusively by people of British origin or professing the Christian faith; out of the four hundred millions of the King's subjects a fraction only are British by origin. The Committee feel that they are justified in appealing with confidence to the Secretary of State to interpose in favour of His Majesty's Indian subjects. The mere fact that the Colonies are self-governing will not, in the Committee's opinion, prevent the odium of the ill-treatment and injustice from resting on the Imperial Government.

I have, &c.,

G. M. EBRAHIM,

Hon. Secretary.

No. 23.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 21 October, 1913.)

[Answered by No. 34.]

SIR,

Governor-General's Office, Pretoria, 27 September, 1913.

I HAVE the honour to transmit to you...

mass meeting of British Indians, held under auspices of Natal Indian Congress, against the Immigrants Regulation Act.

I have, &c.,
GLADSTONE,
Governor-General.

SCHEDULE OF ENCLOSURES.

8th September.—Telegram from Mahomed Cassim Coovadia.
10th September.—Telegram to Mahomed Cassim Coovadia.
10th September.—Minute, No. 15/468, to Ministers.
25th September.—Minute, No. 906, from Ministers.

Enclosure 1 in No. 23.

TELEGRAM from MAHOMED CASSIM COOVADIA to PRIVATE SECRETARY TO HIS EXCELLENCY THE GOVERNOR-GENERAL.

8th September, 1913.

Mass meeting of British Indians held yesterday authorised me to request His Excellency to forward the following resolution by deferred cable to Secretaries of State for Colonies and India and to Indian Viceroy through India Office. Mass meeting British Indians held under auspices Natal Indian Congress emphatically protest against harsh working Immigrants Regulation Act hitherto revealed which contrary to promises repeatedly given as (a) fifty per cent. already domiciled declared prohibited under its working; (b) people with domiciled certificates who could have entered country without difficulty under old Act put to unnecessary delay, trouble, heavy expenses; (c) fixing twenty-six pounds deposit from prohibited seeking appeal acts very oppressively on already domiciled and want of it has been cause of sending back India rightfully domiciled people temporarily absent which equivalent depriving vested rights and inaugurating slow sure process of elimination. Meeting appeals Imperial and Indian Governments use good offices protect us from this un-British autocratic legislation by advising Crown exercise royal prerogative of vetoing measure within twelve months from promulgation. Cost of cabling will be remitted to you on receipt of bill.

Enclosure 2 in No. 23.

TELEGRAM from SECRETARY TO GOVERNOR-GENERAL, Pretoria, to MAHOMED CASSIM COOVADIA, Durban.

10th September, 1913.

I am directed by the Governor-General to acknowledge the receipt of your telegram of the 8th September and to say that His Excellency has communicated it to the Secretary of State for the Colonies, with a request for its transmission to the Secretary of State for India and the Viceroy of India.

Enclosure 3 in No. 23.

GOVERNOR-GENERAL TO MINISTERS.

(Minute No. 15/468.)

Governor-General's Office, Pretoria,

10th September, 1913.

The Governor-General transmits to Ministers herewith a copy of a telegram which he has received from Mahomed Cassim Coovadia communicating the terms of a resolution passed at a mass meeting of British Indians held on 8th September.

In accordance with the request made in the telegram the Governor-General has telegraphed its terms to the Secretary of State for the Colonies.

The Governor-General would be glad to know whether Ministers desire to make any comment upon the terms of the resolution for the information of the Secretary of State.

GLADSTONE,
Governor-General.

Enclosure 4 in No. 23.

MINISTERS TO GOVERNOR-GENERAL.

(Minute No. 906.)

Prime Minister's Office, Pretoria,
25th September, 1913.

In acknowledging the receipt of His Excellency the Governor-General's Minute, No. 15/468, dated the 10th September, 1913, transmitting copy of a telegram received from Mahomed Cassim Coovadia, communicating the terms of a resolution passed at a mass meeting of British Indians held on 8th idem, Ministers have the honour to state that they do not desire to make any comment upon the resolution further than that the Immigrants Regulation Act, No. 22 of 1913, and the Regulations thereunder, are being administered in a proper and reasonable manner, and that any point of detail in the present procedure which differs in any respect from the form followed under the repealed Natal Immigration Act is magnified by the Indians into an act of injustice.

Ministers would further state that it is patent that the Indians are endeavouring by every possible means to place difficulties in the way of the Immigration Officers, and to discover methods of evading the provisions of the new Act.

LOUIS BOTHA.

No. 24.

THE GOVERNOR-GENERAL TO THE SECRETARY OF STATE

(Received 21 October, 1913.)

Governor-General's Office, Pretoria,

SIR,

2 October, 1913.

I HAVE the honour to transmit to you, herewith, copies of telegraphic correspondence with the East London British Indian Association, on the subject of the arrest of certain Indians at Volksrust.

2. I have communicated a copy of this correspondence to my Ministers.

I have, &c.,
GLADSTONE,
Governor-General

Enclosure 1 in No. 24.

TELEGRAM from EAST LONDON BRITISH INDIAN ASSOCIATION, East London, to HIS EXCELLENCY LORD GLADSTONE, Pretoria.

29th September, 1913. We, the East London members of the British Indian Association, respectfully appeal to you to exercise your powers as High Commissioner regard to the high-handed action of the Union Government in unlawfully arresting a large number of South African Indians at Volksrust. In our opinion the Government has departed from the spirit of conciliation promised before the passing of the Immigration Act, and we humbly appeal to you to use your personal influence to secure their release. We further wish to convey to you that we cordially support Mr. Cachalia's objections to the administration of the Act made through the Johannesburg Branch of the Association and lodged with the Government.

Enclosure 2 in No. 24.

TELEGRAM from SECRETARY TO THE GOVERNOR-GENERAL to EAST LONDON BRITISH INDIAN ASSOCIATION, East London.

30th September, 1913. Your telegram of 29th September to His Excellency the Governor-General is receiving attention.

No. 25.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 21 October, 1913.)

Governor General's Office, Pretoria,

2 October, 1913.

SIR,

I HAVE the honour to transmit to you herewith, for transmission to the Secretary of State for India, a copy of a letter from the Secretary, The Awakened India Society, Cape Town, dated 26th September, on the subject of resolutions passed at a meeting held at Cape Town on the 23rd September, relative to the Immigrants Regulation Act, its administration, and to the revival of the passive resistance movement.

2. I have communicated a copy of this letter to my Ministers.

I have, &c.,

GLADSTONE,

Governor-General.

Enclosure in No. 25.

THE AWAKENED INDIA SOCIETY to the GOVERNOR-GENERAL.

175, Loop Street, Cape Town,

26th September, 1913.

MY LORD,

ON behalf of the Awakened India Society, Cape Town, I have the honour to submit, for the information of the Honourable the Lord Viscount Gladstone, and for transmission to the Honourable the Secretary of State for India, the following resolutions, which were unanimously passed at a public meeting held under the direction of Mr. H. S. L. Pollock on the 23rd September, 1913, Cape Town. I have the honour also to say that the British Indians in Cape Province have declared to join in the passive resistance struggle.

The resolutions are:—

- (1) "This meeting of Cape British Indians hereby strongly condemns the Immigrants Regulation Act of 1913 and its administration as being in direct conflict with the solemn promises and declarations of responsible Ministers, in that it fails to remove the racial bar from the statute book as regards immigration, it deprives the Indian community of existing rights, and it reflects in highly dishonourable terms upon monogamous marriages contracted in South Africa according to Indian religious rites."
- (2) "This meeting, having seen the letter addressed to the Government by the Chairman of the Transvaal British Indian Association, cordially associates itself with the views expressed therein, and deplores the failure of the Government to honour the terms of the provisional settlement of 1911, that has now, after earnest efforts on the part of the Indian community to avoid it, resulted in a revival of the bitter passive resistance struggle."
- (3) "This meeting learns with pride that sixteen well-known members of the community, men and women, had been imprisoned at Volksrust as passive resisters, and tenders cordial thanks to them and deep sympathy to their suffering families, and hopes that their example will prove a source of inspiration to others throughout South Africa, and an inducement to those in this Province to suffer and sacrifice for the name of India."

I have, &c.,

V. R. VARTAK,

Secretary.

To the Right Honourable
the Lord Viscount Gladstone, G.C.M.G.,
Cape Town.

No. 26.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 21 October, 1913.)

(Extract.)

Governor-General's Office, Pretoria, 2nd October, 1913.

IN continuation of my despatch of the 25th ultimo,* I have the honour to enclose further newspaper extracts with reference to the dispute between the British Indians in South Africa and the Union Government.

The first contains a report of a public meeting at Vrededorp, a suburb of Johannesburg. Some interest attaches to the speeches, notably to that delivered by Mr. Gandhi. It will be observed that he appears now to have included a demand for the abolition of the £3 tax among the points upon which, in the absence of a satisfactory assurance by the Government, the renewal of passive resistance was to be based. This is an extension of the requests which he originally submitted, but it formed part of the claims embodied in Mr. Cachalia's ultimatum.

You will observe that at the same meeting Mr. Kallenbach, in discussing the case of the sixteen passive resisters sentenced to imprisonment at Volksrust, described as erroneous the statement that they had been arrested. What he presumably meant, and what I believe to have been the case, is that these persons were not arrested in the first instance, but were simply not allowed to proceed into the Transvaal. They were notified that it was open to them within a period of three days to appeal against the action of the immigration authorities. After the expiration of this period, they were deported into Natal. They immediately re-entered the Transvaal, and were then arrested and dealt with by the magistrate, who exercised his own unfettered discretion with regard to the sentence. The Government had given to magistrates no intimation whatever of any views or wishes of their own as to the sentences to be imposed in such cases.

The second enclosure indicates that the Government are endeavouring, so far as practicable, to avoid prosecutions of would-be passive resisters.

The third extract† contains an allegation by the "Transvaal Leader" that the Indian community at large are far from unanimous in support of the passive resistance movement, and that the Transvaal Indian merchants in particular are standing aloof. These statements are vigorously repudiated in the letters from Mr. Gandhi, Mr. Ritch, Mr. Kallenbach and certain Indian merchants as published in the extract which forms my fourth enclosure.†

From the fifth enclosure it appears that four more passive resisters have been arrested and sentenced to imprisonment at Volksrust, and that further invasions of the Transvaal from Natal may be expected.

The sixth enclosure† reports rumours, as to which I have no authoritative information, that passive resisters either have resorted or intend to resort to a hunger-strike.

The seventh and last enclosure reports a judgment by the Natal Provincial Division of the Supreme Court as to the interpretation of the word "monogamous" in Section 5 (g) of the Immigrants Regulation Act. The Court held that a marriage solemnised under a system which recognised polygamy was polygamous even though one wife only for the time had actually been married. This bears out the view which I have always taken of the effect of the words inserted into sub-section (g) of Section 5.

Enclosure 1 in No. 26.

EXTRACT FROM THE "RAND DAILY MAIL" OF SEPTEMBER 29TH, 1913.

INDIAN PASSIVE RESISTERS: MASS MEETING AT VREDEDORP: WOMEN AND BABIES GOING TO GAOL.

A mass meeting of Indians was held at the Hamedia Hall, Vrededorp, yesterday, at which a gathering of close upon five hundred resolved upon immediately taking up passive resistance. Mr. Cachalia presided, supported by Mr. Gandhi and prominent members of the Johannesburg

Mr. Gandhi at the outset stated that he had already addressed two meetings that afternoon, one of which consisted of some fifty Indian women, who were mostly affected by the Immigration Act. All of them had decided to throw in their lot with their sisters who were serving three months' hard labour at Vereeniging. (Applause.) They had decided, some of them with babies in arms, to undergo all the hardships that gaol life meant. They were going to suffer for their own honour, and though he had warned them, and had even exaggerated the factor of the hardships of gaol life, they would be gratified and surprised, possibly, to hear that the women were staunch. In a few days' time they would be in His Majesty's gaol. (Applause.)

Mr. Gandhi touched upon the requests of the Indian community and the reasons for resuming the campaign of passive resistance. "Our demands," said Mr. Gandhi, "are in my opinion incredibly simple. The first in point of importance is that the poll tax of £3 be abolished. This is payable by all the ex-indentured Indians, their wives and grown-up children, so that in the case of a family of six the tax is £18 per year. This tax, as Lord Ampthill stated in the House of Lords, was on promise of repeal during the last session of Parliament. This was a promise made to Gokhale when he came to South Africa. The second thing is the marriage difficulty. I see wild statements made to the effect that we are trying to alter the whole basis of the marriage law of South Africa and to legalise polygamy. Nothing can be further from our thought than that. All we ask for is the restoration of the status that existed before the Searle judgment, and that is, legal recognition of monogamous marriages according to our own religious rites. Surely this does not mean any alteration of the basis of the marriage law of South Africa. We have certainly asked for the admission of the existing plural wives of the Indians who are domiciled here, but for no legal recognition of their status. This has been done before, and we simply ask for its continuation. It affects a very small number of Indian women. You will be surprised to know that the law of South Africa has actually, in the interests of the planting community, even legally recognised polygamy in the case of the indentured Indians. But we are asking for no such legal recognition for plural wives of free Indian settlers. The third point is the retention of the right of South African-born Indians to enter the Cape by reason of their birth. The fourth point is the Free State difficulty. This is almost settled. We claim that the new Act does not mean that an Indian who may possibly enter the Free State is required to make, as an immigrant, the Free State declaration as to prohibition of holding landed property, to farm, and to trade. If such is the interpretation placed upon the law by the Government also there is no dispute. If the Government make that admission the whole difficulty is solved." (Applause.)

Mr. Kallenbach explained the position at Volksrust with regard to the sixteen passive resisters. The authorities were absolutely perplexed as to what to do. The passive resisters had accepted local hospitality, and one could realise the strength of the beauty of passive resistance. It had been falsely stated that they were arrested. They were not allowed to proceed, but they were at liberty to return. The Indians of Charlestown and some of the Europeans supported the movement, and were impressed by the quiet manner in which the passive resisters took their sentences. But they relied upon the support of the Indians of South Africa. (Applause.)

Mr. Ritch referred to the trouble of two years, and said it was the struggle of the mentally strong man. He would guarantee to paralyse any law given a hundred strong-minded passive resisters. He had not the smallest doubt that, given the following he expected, Mr. Gandhi would succeed in removing the disabilities. The Press were fond of saying that the disabilities were thin, but if that was so, there were plenty of others—the Gold Law, the Townships Act. Did the Government want a struggle on those issues? Was it a small thing that a merchant long established under the Gold Law or the Townships Act might find himself ruined because of a class distinction? Was it a small thing that every impediment should be thrown in the way of education and advancement? It was a question of thrusting the Asiatic community into quasi-serfdom. It would be doing ordinary justice to grant the concessions which were asked. He was satisfied that the Indian community had sufficient determination and self-respect to respond to the call to arms which had been made by Mr. Gandhi. (Applause.)

Mr. Royeppen, a barrister, of Natal, spoke of the bravery and public-spirited action of the Indian women in volunteering to go to prison. Let the men take their example to heart. (Applause.)

A resolution to the following effect was then adopted: That this meeting held under the auspices of the British Indian Association endorses the action taken by Mr. Cachalia in his letter to the Government, and congratulates the pioneers from Natal who are waiting in His Majesty's gaol at Vereeniging. This meeting further resolves upon the immediate taking up of passive resistance and to continue it until the requests contained in Mr. Cachalia's letter are granted. The meeting respectfully urges the Union Government to grant that request in fairness to the community and also asks the Imperial and Indian Governments to help the community and trusts that the leaders of thought, both in England and India, will support the community in the endeavour to conserve national honour.

The resolution was carried with some manifestations of enthusiasm.

Enclosure 2 in No. 26.

EXTRACT FROM THE "RAND DAILY MAIL" OF SEPTEMBER, 1913.

The Indian hawkers from Vrededorp and other districts went out yesterday without means of identification, but not one of them was stopped by the police. All of them reported at the Indian headquarters in Vrededorp, present and correct.

In the meantime the members of the Indian community, we are assured, are in deadly earnest about the demands which they have issued to the Government. The decision of the women to go to gaol, even with their babies at the breast, has aroused strong feeling among the men. They are taking every chance of putting themselves within the reach of the law.

The thing that they are waiting for is the next active step on the part of the Government. No arrests were made yesterday.

Enclosure 5 in No. 26.

EXTRACT FROM "TRANSVAAL LEADER" OF OCTOBER 1ST, 1913.

PASSIVE RESISTANCE.

LAW-BREAKERS AT VOLKSRUST.

Volkstrust, Tuesday.

Four more passive resisters were deported across the border by the police at nine o'clock this morning. The Indians immediately re-entered the Transvaal and were then arrested by the police and charged at the Magistrate's Court. The four accused were found guilty, and sentenced to three months' hard labour.

ATTITUDE AT MARITZBURG.

Maritzburg, Tuesday.

Certain local Indians have reaffirmed that Maritzburg will participate in the passive resistance movement. They state that, beginning from to-day, batches of from five to ten Indians will leave the city daily for Volksrust and endeavour to cross the border into the Transvaal. Feeling is growing stronger here. A mass meeting to discuss the situation will be held in the city next Sunday. The promoters assert that many of their well-to-do local compatriots are heart and soul in the movement.

Enclosure 7 in No. 26.

EXTRACT FROM THE "RAND DAILY MAIL" OF OCTOBER 2ND, 1913.

A MARRIAGE PROBLEM: INTERESTING JUDGMENT IN NATAL.

Maritzburg, Wednesday.

"Can a man who has married one wife be regarded as polygamous under the Act, the Act in this case being Act 22, 1913, Section 5, Sub-section 12 [9]?" This was the problem submitted before the Supreme Court this morning and the Judge-President. Mr. Justice Dove-Wilson ruled that it may be polygamy under certain circumstances. The argument arose through the Immigration Officer not having granted permission for Kulsum Bibi, the wife under Mohammedan law of Nawab Khan, of Natal, to enter the Province.

After argument, the Judge-President said that the point to be answered was whether a marriage solemnised under Mohammedan law by an Indian was a monogamous marriage within the provisions of the Act. From the facts stated in that case, at the time of the marriage the male contracting party had no wife living, and since the ceremony he had not gone through any form of marriage with another woman. Under the Mohammedan law, it had been stated—and the Court would assume that it was correct—that after the first marriage a man might contract marriages with three other women during the lifetime of the first wife.

Citing authorities, his Lordship said that, in the case of *Hide v. Hide*, marriage had been defined as the voluntary union for life of one man and one woman to the exclusion of all others. That principle was recognised in the South African Court. It was held that persons married under a polygamous system could not be recognised as married at all, and in the case of two Mohammedans in 1905 at the Transvaal Supreme Court, Chief Justice Innes said that "marriage is the union of one man and woman to the exclusion, while it lasts, of all others." The marriage under review, added the Judge-President, was monogamous in the sense that only one wife had been married, but it appeared to him—and there was authority for it—that the marriage was none the less polygamous, though one wife only for the time had been married, for the marriage had been solemnised under a system which recognised polygamy. He thought that it was impossible to call a marriage monogamous where the parties in the union agreed to the condition that other women might be married by the husband during the lifetime of his first wife. The essence of a monogamous marriage was that it was the union between a man and a woman recognising that it was a marriage to the exclusion of all others. Therefore the case before the Court could not be assumed to be monogamous.

of the hearing of this case before the Appeal

EXTRACT FROM "THE NATAL MERCURY," 19 AUGUST, 1913.

IMMIGRATION RESTRICTION.

DIFFICULTIES OF THE APPEAL BOARD.

ADMINISTRATION AND THE NEW ACT.

CASE REFERRED TO SUPREME COURT.

That the new Immigration Restriction Act is bristling with difficulties is getting plainer as the work of the Appeal Board proceeds. Yesterday the Board had again under consideration the appeal on behalf of an Indian woman named Kulsan Bibi, who had been refused admission on the ground that she was not the wife, in a monogamous marriage, as contemplated by the Act, of one Mahboob Khan, an Indian domiciled in Natal. Briefly, the facts were that, in 1902, Mahboob Khan, having previously lived in Natal, returned to India in 1902, and was married according to Mohammedan rites to the woman in question. He returned to Natal, and in 1904 and onwards was alleged to have cohabited with another Indian woman, by whom he had two children.

Mr. Eugene Renaud, in support of the appeal, held that under Sub-section "G" of the Act the appellant was entitled to admission. That sub-section provided that a "wife" or child under 16 years of any person domiciled in any Province, including the wife or child of a lawful monogamous marriage duly celebrated according to the rites of any religious faith, were exempt.

After argument, Mr. Renaud in addressing the Board said, that Sub-section "G" referred to was put in the Act, at the instigation of the Indian community, by the late Mr. Sauer. It was a matter of great moment to many people in the country. In view of the absence of a definition of "monogamous" marriage he held that the woman was entitled to admission.

Mr. Darby, immigration officer, claimed that the woman was not the wife of Mahboob Khan by monogamous marriage, and said that the immigration authorities had an affidavit sworn to in 1910, in which the said Mahboob Khan was married according to Indian rites to the woman he was alleged to have cohabited with in Natal. The Indian marriages in this country were not registered, otherwise the certificate would be produced. In any case, if the woman concerned in the alleged second marriage came to Natal the immigration authorities would have considerable difficulty in keeping her out if such a proceeding were necessary or desirable. He held that the marriage in India was not monogamous as contemplated by the Act.

The President (Mr. Percy Binns, K.C.), said the point raised in the case was of the greatest moment to the Indian community in South Africa. The Court had before them the judgment of Mr. Justice Searle, which was given under the old law, in which the word "wife" was mentioned without any qualification at all. He (Mr. Binns) might say that in their interpretation of the word "monogamous," that Court was not unanimous. The word had been discussed, cases had been referred to, and dictionaries looked up in order to get at the exact meaning of the word, as far as that case was concerned. The Court, however, was in sympathy with any man who was separated from his partner. But the proceedings were not a matter of sympathy; the Court had to carry out the law. It had occurred to the Court that, in view of the possibility of many similar cases arising in the future, it was desirable that the Court should exercise the power vested in it by Sub-section 2 of Section 3 of the Act. That sub-section empowered the Board to reserve for decision by the Superior Court any question of law. The Board, in view of the momentous character involved in the present case, had resolved to exercise that power so that as speedily as possible a case should be submitted to a Superior Court in order that an authoritative pronouncement might be given. The Court proposed to submit a case to a Superior Court in the following terms—which, of course, might be modified: (1) That Mahboob Khan and Kulsan Bibi were duly married in India according to Mohammedan law by a priest of that religion, and that the marriage was of such a character as was, and is, recognised as legal and a valid marriage in India; (2) Upon the evidence the Board is satisfied that the woman Kulsan Bibi is the only lawful living wife of Mahboob, and that her marriage to him was contracted when he was a widower, he having previously married only one wife, who at the time of the second marriage was deceased, and that he has not since gone through a ceremony of marriage purporting to be legal with any other woman. That Khan did, in 1904, enter into union with another woman in Natal, but the said union was not registered or performed before anyone authorised to celebrate a marriage; (3) That it was admitted in evidence that, under the law of India under which the marriage with Kulsan Bibi was performed, it was lawful for a man to have as many as four wives, and that the man Khan under the law in India could have had another three wives. On behalf of the Immigration Department it is argued that the mere fact that the marriage was celebrated under a law which allowed four wives, the marriage of Mahboob with Kulsan Bibi was not monogamous. On behalf of the appellant, it is contended that Khan, having only one lawful wife living at the present time, is married to Kulsan Bibi, and that marriage is not polygamous, but monogamous.

The President, in conclusion, said the Court was anxious to do everything in its power to make the proceedings as full as possible, even though some of the evidence, as he had remarked in the course of the hearing, might be romantic. The Court was most anxious to get an authoritative pronouncement by a Superior Court. Such a pronouncement would not only help the Court, but also the immigration authorities. He wished to impress upon those concerned that it would greatly expedite matters if the parties coming before the Court would bring before it duly authenticated certificates from the proper authorities in India.

No. 28.

COLONIAL OFFICE to SOUTH AFRICA BRITISH INDIAN COMMITTEE.

SIR,

Downing Street, 22 October, 1913.

I AM directed by Mr. Secretary Harcourt to acknowledge the receipt of your letter of the 6th instant,* on the subject of certain complaints of the Indians in South Africa arising out of the recent Immigration Act, and to inform you that Mr. Harcourt fears that so long as the passive resistance movement continues it will be useless to address any representations to the Union Government with a view either to any amendment of the Act or to the more lenient administration of it.

2. With regard, however, to the case of Kulsan Bibi, I am to point out that, according to Press reports, the Immigration Officer appears to have resisted this woman's entrance on the ground that Mahboob Khan had in 1910 sworn that he was married according to Indian rites to another woman with whom he had lived in Natal.† The assurance given by Ministers to continue the practice of admitting one wife for each Indian does not, therefore, appear to be applicable in this case.

I am, &c.,

JOHN ANDERSON.

No. 28.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

MY LORD,

Downing Street, 22 October, 1913.

I HAVE the honour to acknowledge the receipt of Your Excellency's telegram of the 8th instant,‡ on the subject of a resolution of a meeting of Anjooman Islam, held at Durban, concerning a judgment delivered by the Natal Supreme Court to the effect that for the purposes of the Immigration Act no marriage can be regarded as monogamous which has been celebrated according to the rites of any religion tolerating polygamy. I understand that this decision arises out of the case of Kulsan Bibi, which is referred to in the enclosed correspondence§ with the South Africa British Indian Committee, and as to which I should be glad to receive a full report.

2. I request, if your Ministers concur in the correctness of the following reply, that the Chairman of the meeting may be informed that I understand that South African law has never recognised polygamous marriages, in which respect it is identical with the law of this country, and that recent decisions of the Court have not in any way altered the law. You should add that I am confident that the Indians may rely on Ministers' pledge to continue the practice of admitting one wife for each Indian entitled to reside in South Africa, provided that she really is his wife and there is no other wife already in the country.

I have, &c.,

L. HARCOURT.

No. 29.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 28 October, 1913.)

[Answered by No. 38.]

SIR,

Governor-General's Office, Pretoria, 8 October, 1913.

I HAVE the honour to transmit to you herewith, with reference to my telegram of the 3rd October,|| telegraphic correspondence with the Anjuman Islam, Durban, on the subject of a resolution adopted at a meeting of the Anjuman Islam, Durban, on the 1st October.

2. I have transmitted a copy of this correspondence to my Ministers.

I have, &c.,

GLADSTONE,

Governor-General.

Enclosure 1 in No. 29.

ANJUMAN ISLAM, 101, Field Street, Durban, to PRIVATE SECRETARY, HIS EXCELLENCY
GOVERNOR-GENERAL, Pretoria.

TELEGRAM.

2nd October, 1913.

At representative meeting my Association last night following resolution unanimously passed. Request you will kindly convey substance thereof by cable to Secretaries State Colonies, India, the expense of which my Anjuman will bear.

"This meeting of the Anjuman Islam, Durban, records its strong protest against the action of the Government in failing to carry out both in the spirit and in the letter their undertaking embodied in the provisional settlement of 1911 and emphatically approve of the letter addressed to them by Mr. Cachalia announcing the resumption of passive resistance until the grievances set forth therein are remedied. The meeting heartily congratulates the brave men and women who have pioneered the last phase of the passive resistance struggle for the maintenance of religion and the national honour of the Indian community. The meeting respectfully urges the Government, even at this late hour, to grant redress, and earnestly requests the Imperial and Indian Governments to use their influence to that end."

—RANDEREE, Chairman.

Enclosure 2 in No. 29.

SECRETARY TO THE GOVERNOR-GENERAL, Pretoria, to ANJUMAN ISLAM, 101, Field Street, Durban.

TELEGRAM.

3rd October, 1913.

I have to acknowledge the receipt of your telegram of 2nd October, the substance of which is being communicated to the Secretary of State for the Colonies with request for its transmission to Secretary of State for India.

No. 30.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 28 October, 1913.)

SIR,

Governor-General's Office, Pretoria, 9 October, 1913.

I HAVE the honour to transmit to you herewith, with reference to my telegram of the 8th October,* copies of telegraphic correspondence with Anjuman Islam, Durban, and a minute to Ministers on the subject of a resolution adopted at a meeting of Anjuman Islam held at Durban on the 2nd October, relative to a recent judgment of the Natal Provincial Division of the Supreme Court of South Africa, interpreting the expression "monogamous" in Section 5 (g) of the Immigrants Regulation Act, 1913.

I have, &c.,
GLADSTONE,
Governor-General.

Enclosure 1 in No. 30.

ANJUMAN ISLAM, 101, Field Street, Durban, to PRIVATE SECRETARY TO HIS
EXCELLENCY THE GOVERNOR-GENERAL.

TELEGRAM.

3rd October, 1913. At representative meeting my Anjuman held at Mosque

Request you will kindly convey substance thereof by cable to Secretaries for State Colonies, India, the expense of which my Association will bear.

"This meeting of the Anjuman Islam deeply regrets the decision of the Supreme Court that single Indian marriages lawfully celebrated according to religious rites are not protected by the Immigration Act. The Court has in effect condemned ninety-nine per cent. of Indian marriages, which are as fully monogamous as any European's marriage. The meeting strongly protests against what it is bound to regard as the bad faith of the Government in raising the question in view of the official adoption of an amendment to the Immigration Bill specially designed to protect such marriages, and regards the action of the Government, which deeply wounds the religious susceptibilities of all Indians, as a further justification for passive resistance."

—RANDEREE, Chairman.

Enclosure 2 in No. 30.

SECRETARY TO GOVERNOR-GENERAL to RANDEREE, ANJUMAN ISLAM, 101, Field Street, Durban.

TELEGRAM.

8th October, 1913. I have to acknowledge the receipt of your telegram of 3rd October, the substance of which is being communicated to the Secretary of State for the Colonies, with request for transmission to Secretary of State for India.

Enclosure 3 in No. 30.

GOVERNOR-GENERAL to MINISTERS.

(Minute No. 15/482.)

Governor-General's Office, Pretoria, 8th October, 1913.

The Governor-General transmits to Ministers herewith a copy of a telegram from the Chairman of a meeting of Anjuman held at Durban on the 2nd October, communicating the terms of a resolution relative to a recent judgment of the Natal Provincial Division of the Supreme Court, interpreting the expression "monogamous" in Section 5 (g) of the Immigrants Regulation Act. A copy of the reply which has been sent is attached.

The Governor-General would be glad to know whether Ministers desire to offer any remarks upon this matter for communication to the Secretary of State for the Colonies.

GLADSTONE,
Governor-General.

No. 31.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 28 October, 1913.)

[Answered by No. 38.]

SIR,

Governor-General's Office, Pretoria, 9 October, 1913.

I HAVE the honour to transmit to you herewith for your information, and for transmission to the Secretary of State for India, a copy of a letter from the Chairman, Port Elizabeth British Indian Association (with enclosure), dated 2nd October, on the subject of resolutions passed at a public meeting of Port Elizabeth Indians on the 25th September.

2. I have communicated copies of the resolutions to my Ministers.

I have, &c.,
GLADSTONE,

Enclosure in No. 31.

PORT ELIZABETH BRITISH INDIAN ASSOCIATION to the GOVERNOR-GENERAL.

Port Elizabeth, 2nd October, 1913.

SIR,

I HAVE the honour to enclose herewith four copies of resolutions passed at a public meeting of Port Elizabeth Indians on the 25th ultimo.

I am instructed to request that His Excellency will cause copies to be sent forward at his early convenience to the Secretaries of State for the Colonies and India respectively.

I have, &c.,

R. G. TEIKAMDAS,
Chairman.

The Private Secretary
to His Excellency
the Governor-General,
Pretoria.

This meeting of Port Elizabeth Indians hereby expresses its profound regret that the Government have failed both in the letter and in the spirit to give effect to the terms of the provisional settlement of 1911; the meeting further approves of the letter addressed to the Government by the Chairman of the Transvaal British Indian Association, and associates itself entirely with the determination expressed therein to renew the passive resistance struggle until such time as the just demands of the Indian community are met; the meeting is further of opinion that the best interests of Indians throughout the Union are involved in the success of the passive resisters, and cordially congratulates the brave men and women who have already sought imprisonment for the honour of the Indian community.

This meeting hereby authorises the chairman to forward copies of the above resolution to the Minister of the Interior and to His Excellency the Governor-General, with a request to the latter to transmit copies to the Secretaries of State for the Colonies and India.

Certified correct:

R. G. TEIKAMDAS.

October 2nd, 1913.

No. 32.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 28 October, 1913.)

(Extract.)

Governor-General's Office, Pretoria,
9th October, 1913.

DURING the past week no important developments have taken place in the Indian passive resistance movement, and I have little to add to the report contained in my despatch of the 2nd instant.*

From the enclosed newspaper extracts† it appears—

- (1) That two more Indian hawkers were arrested at Johannesburg on Thursday last for not being in possession of licences and for failing to carry identification papers, bringing the total of such arrests up to five.
- (2) That six more passive resisters were arrested at Volksrust on the 7th instant and sentenced to three months' imprisonment, bringing the total of such convictions up to thirty, and that a meeting of European sympathisers at Johannesburg, presided over by Mr. William Hosken, decided to make representations to the Government in support of the Indian demands.
- (3) That yesterday nine Indian hawkers were arrested at Johannesburg, and sixteen (of whom six were women) at Germiston, but that certain Indian women who entered the Orange Free State at Vereeniging have hitherto been ignored by the authorities.

The fourth enclosure embodies a statement of Indian demands as published in the Press on the 7th instant.

Enclosure 4 in No. 32.

EXTRACT FROM "TRANSVAAL LEADER," DATED OCTOBER 7TH, 1913.

INDIANS' GRIEVANCES.

A STATEMENT OF DEMANDS.

We have received the following statement of the demands of the Indian community:—

1. The removal of the annual tax of £3 which ex-indentured Indians—men, women, and children—are liable to pay as the price of their remaining free from re-indenture in Natal.

2. (a) An amendment of the Marriage Law of the Union so as to recognise the legality of monogamous Indian marriages celebrated, whether in India or South Africa, according to the rites prescribed by the Hindu and Mahomedan religions. Although both of these religions countenance polygamy, statistics show that only one per cent. of Indian marriages are polygamous. (b) Administrative admission of the existing plural wives (not more than 100 in all) and their children of Indians already domiciled. This was the position at the time of the inauguration of Union. Legal recognition of polygamy is not asked for.

3. Restoration of the right to enter the Cape of South African-born Indians. This right existed at the time of the introduction of the Immigration Bill, and its retention may in practice mean the admission of hardly more than a dozen Indians annually to the Cape from Natal and the Transvaal.

4. The Government say that there is no racial bar in the Immigration Act. Therefore an admission from them is necessary that no declaration will in law be required from an Indian at the Free State border that will not be equally necessary from a European. In practice, this does not mean that any Indian will necessarily enter the Free State, but, if he does, he will still remain liable to the prohibition to own land, to farm or to trade.

5. A declaration that existing laws, such as the Transvaal Gold Law and Townships Act, the Licensing Laws of the Cape and Natal, and the Immigration Act, shall be administered in a liberal spirit and with due regard to vested rights. The policy of the Government is, for example, to prevent Indians with *bona fide* proof of previous residence from re-entering their respective Provinces, if they have been absent for a long period. This situation is intolerable.

The first point was the subject of a definite promise to the Hon. Mr. Gokhale. The others arise out of the provisional settlement of 1911.

The statement continues:—Indians do not fight for equal political rights. They recognise that, in view of the existing prejudice, fresh immigration from India should be strictly limited, provision being made for the entrance of a sufficient number annually for reasonable wear and tear. As no relief could be obtained by prayers, petitions or negotiations, Indians started passive resistance on the 15th September by 12 men and four women setting out from Natal to court imprisonment at Volksrust. The movement is spreading. There are already in gaol 35 passive resisters—a larger number than when the two previous campaigns started or when the provisional settlement of 1911 resulted in a suspension of passive resistance. Numbers of men and women are coming forward daily to seek arrest. Several of the women have taken their babies with them, as they have not yet been weaned or are incapable of being looked after otherwise. Arrest is courted by crossing the border, or by hawking without licences, or by refusing to show licences or permits, or by breaking other civil laws which do not involve a breach of the moral law. The Free State border is left untouched, as there is no desire at all to inflame public opinion so far as it can be avoided, and there is every desire to show that Indians wish to respect the Free State prejudice. The movement will also consist in advising indentured Indians to suspend work until the £3 tax is removed. The indentured Indians will not be invited to join the struggle. On the strength of the promise made to Mr. Gokhale, and which promise was brought to the notice of the House of Lords by Lord Amthill, these men were assured by Indian leaders, at meetings of thousands, that the tax would be repealed during the last session of Parliament. Meetings in support of the claims of the passive resisters have been held in Capetown, Port Elizabeth, East London, Woodstock, Durban, Maritzburg, Tongaat, Verulam, and Johannesburg (representing all the principal towns in the Transvaal), and similar meetings are being held at other centres. If the Government wish to grant relief, fresh legislation will be necessary only on the marriage and the £3 tax questions. All other points are capable of easy adjustment without legislation. The marriage difficulty can be solved by a brief amendment of the Immigration Act without in any way interfering with the general marriage laws of the Union.

At a meeting of the Hamidia Islamic Society, held yesterday at the Society's Hall in Vrededorp, Imam A. K. Bawazeer presiding, the following resolution was proposed by Mr. M. P. Fancy (treasurer of the Society), seconded by Mr. Amod Moosajee, supported by Messrs. Aswat and Shahboodeen, and carried unanimously:—

"This meeting of the Hamidia Islamic Society hereby associates itself with Mr. Cachalia's letter to the Government, strongly supports the passive resistance movement, and congratulates those passive resisters—men and women—who are already undergoing imprisonment. This meeting further expresses its deep indignation at the recent decision of the Natal Supreme Court in regard to marriages, whereby the great Mahomedan religion is insulted. This meeting prays that the Government may heed the requests put forward by Mr. Cachalia, and thus end the sufferings of the Indian community."

No. 33.

THE SECRETARY OF STATE TO THE GOV

MY LORD,

Downing

I HAVE the honour to acknowledge the receipt of the 25th September,* forwarding a copy of a letter of the British Indian Union, Cape Town, communicating re of that Union, together with a statement of the g community.

2. I shall be glad if you will cause the Secretary received a copy of these papers.

No. 34.

THE SECRETARY OF STATE TO THE GOVERNOR

MY LORD,

Downing

I HAVE the honour to acknowledge the receipt of the 27th ultimo,† forwarding a resolution of a mass meeting held under the auspices of the Natal Indian Congress working of the Immigrants Regulation Act. I shall be glad to advise His Majesty to exercise his power of disallowance

I h

No. 35.

COLONIAL OFFICE to LONDON ALL-INDIA M

SIR,

Downing St.

I AM directed by Mr. Secretary Harcourt to acknowledge letter of the 15th instant on the subject of the position of the Union of South Africa, and in particular with regard to judgment in the Natal division of the Supreme Court as married according to Indian rites.

I am to enclose a Press report of the judgment on the case which your letter evidently refers. I am to point out that the interpretation of one of the sections of the Immigrants Regulation Act provides that certain persons are not to be deemed prohibited from polygamous marriages (in which respect it is identical with the law of South Africa) and that recent decisions of the Courts have not in any way

No. 36.

THE GOVERNOR-GENERAL TO THE SECRETARY

(Received 4 November, 1913.)

[Answered by No. 39.]

Governor-General's

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Chairman, Indian Political Association, Kimberley, dated 9 October, on the subject of resolutions passed at a public meeting of British Indian residents of Kimberley.

2. I have communicated copies of the resolutions to my Ministers.

I have, &c.,

GLADSTONE,

Governor-General.

Enclosure in No. 36.

TELEGRAM from INDIAN POLITICAL ASSOCIATION, KIMBERLEY, to the SECRETARY TO HIS EXCELLENCY THE GOVERNOR-GENERAL, Pretoria.

9th October, 1913. Mass meeting of British Indian Residents, Kimberley, held under auspices Indian Political Association, endorses action of Chairman, British Indian Association, Johannesburg, in his letter to Union Government. This meeting, while regretting Imperial Government's failure to give effect to representation of His Majesty's Indian subjects resident in South Africa to prevent their further suffering, desire to respectfully urge Government to reconsider their decision and to grant the reasonable requests of Indian community. Respectfully request His Excellency will communicate above resolutions Secretaries for Colonies and India.—DAWSON, Chairman.

No. 37.

THE GOVERNOR-GENERAL TO THE SECRETARY OF STATE.

(Received 4 November, 1913.)

[Answered by No. 39.]

Governor-General's Office,

Pretoria, 14 October, 1913.

SIR,

I HAVE the honour to transmit to you herewith, for transmission to the Government of India, a copy of a letter from Mr. V. R. Pillay (with enclosure), dated 8 October, on the subject of resolutions passed at a mass meeting of Indians held at Pietermaritzburg on the 5th October.

2. I have communicated a copy of the resolutions to my Ministers.

I have, &c.,

GLADSTONE,

Governor-General.

Enclosure in No. 37.

Mr. V. R. PILLAY to the GOVERNOR-GENERAL.

No. 425, Church Street,

Pietermaritzburg, Natal, 8th October, 1913.

MAY IT PLEASE YOUR EXCELLENCY,

I HAVE the honour to humbly forward copies of the resolutions passed at a mass meeting of Indians held in Pietermaritzburg on the 5th instant.

I was authorised by the meeting to request Your Excellency, which I hereby respectfully do, to forward copies of the aforesaid resolutions to the Imperial and Indian Governments.

I beg, &c.,

V. R. PILLAY,

Chairman.

No. 33.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

MY LORD,

Downing Street, 30 October, 1913.

I HAVE the honour to acknowledge the receipt of Your Excellency's despatch of the 25th September,* forwarding a copy of a letter from the Secretary, Cape British Indian Union, Cape Town, communicating resolutions passed at a meeting of that Union, together with a statement of the grievances felt by the Indian community.

2. I shall be glad if you will cause the Secretary to be informed that I have received a copy of these papers.

I have, &c.,

L. HARCOURT.

No. 34.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

MY LORD,

Downing Street, 30 October, 1913.

I HAVE the honour to acknowledge the receipt of your Excellency's despatch, of the 27th ultimo,† forwarding a resolution of a mass meeting of British Indians, held under the auspices of the Natal Indian Congress, protesting against the working of the Immigrants Regulation Act. I shall be glad if you would inform Mahomed Cassim Coovadia that I have received this resolution, but that I cannot advise His Majesty to exercise his power of disallowance in respect to the Act.

I have, &c.,

L. HARCOURT.

No. 35.

COLONIAL OFFICE to LONDON ALL-INDIA MOSLEM LEAGUE.

SIR,

Downing Street, 30 October, 1913.

I AM directed by Mr. Secretary Harcourt to acknowledge the receipt of your letter of the 15th instant on the subject of the position of British Indians in the Union of South Africa, and in particular with regard to the effect of a recent judgment in the Natal division of the Supreme Court as to the status of wives married according to Indian rites.

I am to enclose a Press report§ of the judgment on the case of Kulsum Bibi, to which your letter evidently refers. I am to point out that this judgment concerns the interpretation of one of the sections of the Immigrants Regulation Act, which provides that certain persons are not to be deemed prohibited immigrants, and does not appear to restrict the power of the Executive to admit Indian women. Mr. Harcourt understands that the general law of South Africa has never recognised polygamous marriages (in which respect it is identical with the law of this country), and that recent decisions of the Courts have not in any way altered the law.

I am, &c.,

H. W. JUST.

No. 36.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 4 November, 1913.)

[Answered by No. 39.]

Governor-General's Office,

SIR,

Pretoria, 13 October, 1913.

I HAVE the honour to transmit to you herewith, for your information, and for transmission to the Secretary of State for India, a copy of a telegram from the

Chairman, Indian Political Association, Kimberley, dated 9 October, on the subject of resolutions passed at a public meeting of British Indian residents of Kimberley.

2. I have communicated copies of the resolutions to my Ministers.

I have, &c.,

GLADSTONE,
Governor-General.

Enclosure in No. 36.

TELEGRAM from INDIAN POLITICAL ASSOCIATION, KIMBERLEY, to the SECRETARY TO HIS EXCELLENCY THE GOVERNOR-GENERAL, Pretoria.

9th October, 1913. Mass meeting of British Indian Residents, Kimberley, held under auspices Indian Political Association, endorses action of Chairman, British Indian Association, Johannesburg, in his letter to Union Government. This meeting, while regretting Imperial Government's failure to give effect to representation of His Majesty's Indian subjects resident in South Africa to prevent their further suffering, desire to respectfully urge Government to reconsider their decision and to grant the reasonable requests of Indian community. Respectfully request His Excellency will communicate above resolutions Secretaries for Colonies and India.—DAWSON, Chairman.

No. 37.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 4 November, 1913.)

[Answered by No. 39.]

Governor-General's Office,

SIR,

Pretoria, 14 October, 1913.

I HAVE the honour to transmit to you herewith, for transmission to the Government of India, a copy of a letter from Mr. V. R. Pillay (with enclosure), dated 8 October, on the subject of resolutions passed at a mass meeting of Indians held at Pietermaritzburg on the 5th October.

2. I have communicated a copy of the resolutions to my Ministers.

I have, &c.,

GLADSTONE,
Governor-General.

Enclosure in No. 37.

Mr. V. R. PILLAY to the GOVERNOR-GENERAL.

No. 425, Church Street,

Pietermaritzburg, Natal, 8th October, 1913.

MAY IT PLEASE YOUR EXCELLENCY,

I HAVE the honour to humbly forward copies of the resolutions passed at a mass meeting of Indians held in Pietermaritzburg on the 5th instant.

I was authorised by the meeting to request Your Excellency, which I hereby respectfully do, to forward copies of the aforesaid resolutions to the Imperial and Indian Governments.

I beg, &c.,

V. R. PILLAY,
Chairman.

To His Excellency

The Governor-General,

At a largely-attended mass meeting of the Pietermaritzburg Indians, held on the 5th instant, in connection with the revival of passive resistance, the following resolutions were passed:—

Proposed by Mr. R. M. Moorgas, seconded by Mr. N. B. Naik, and carried unanimously:—

(1) That this mass meeting of the Pietermaritzburg Indians entirely associates itself with the demands of the letter, dated the 12th September last,* sent to the Government by Mr. Cachalia, the Chairman of Transvaal British Indian Association, and resolves to take up a firm stand in the passive resistance movement, until the Government concedes to the provisions of the said letter."

Proposed by Mr. N. B. Naik, seconded by Mr. D. P. Desai, and carried unanimously:—

(2) That this mass meeting congratulates the sixteen pioneers of the passive resisters consisting of men and women and also the five men of Pietermaritzburg and others from Natal and Transvaal, who are now incarcerated in His Majesty's prisons, to defend the national honour."

It was also unanimously agreed that the above resolution be forwarded to His Excellency the Governor-General, the Honourable the Prime Minister, and the Honourable the Minister of Interior, and also that His Excellency be requested to forward copies of the resolutions to the Imperial Government and to the Government of India.

No. 38.

THE SECRETARY OF STATE TO THE GOVERNOR-GENERAL.

MY LORD,

I HAVE the honour to acknowledge the receipt of Your Excellency's despatches, of the 8th and 9th October,† respectively, forwarding copies of resolutions passed at a meeting of the Anjuman Islam, Durban, on the 1st October, and at a public meeting of British Indians held at Port Elizabeth on the 25th September.

2. I have to request that the Anjuman Islam, Durban, and the Port Elizabeth British Indian Association may be informed that I have received copies of the resolutions and that copies have been sent to the Secretary of State for India.

I have, &c.,
L. HARCOURT.

No. 39.

THE SECRETARY OF STATE TO THE GOVERNOR-GENERAL.

MY LORD,

I HAVE the honour to acknowledge the receipt of Your Excellency's despatches, of the 13th and 14th October,† respectively, forwarding copies of resolutions passed at public meetings of British Indians held at Kimberley and Pietermaritzburg.

2. Copies of the resolutions have been sent to the Secretary of State for India.

I have, &c.,
L. HARCOURT.

No. 40.

THE GOVERNOR-GENERAL TO THE SECRETARY OF STATE.

(Received 11 November, 1913.)

(Extract.)

Governor-General's Office,

Pretoria, 22 October, 1913.

I HAVE the honour to enclose herewith a copy of correspondence which has passed between the Department of the Interior and Mr. Gandhi, on the subject of

* See enclosure 1 in No. 16.

the grievances of the Indian community in connection with the Immigrants Regulation Act, 1913.

You will have observed that some of these letters and telegrams have been published in "Indian Opinion" on the 13th ultimo.

Enclosure in No. 40.

21-24, Court Chambers,

Corner Rissik and Anderson Streets,

Johannesburg, 30th June, 1913.

DEAR SIR,

I HAVE endeavoured to study the Immigrants Regulation Act, and observe with thankfulness that it is an improvement upon the original Bill. But I respectfully beg to point out that it fails to carry out the provisional settlement of 1911 in at least four important particulars. In my humble opinion, if redress is granted in regard to these four particulars, the policy of the Government will not be affected, and yet the terms of the settlement, as my countrymen read it, will be just, but only just, satisfied.

The points are:—

(1) According to the definition of the term "domicile," those indentured Indians who arrived after the Indian Immigration Law Amendment Act of 1895 and their descendants appear to become prohibited immigrants.

(2) The descendants of this class, although born in South Africa, will, if the above interpretation be correct, be unable henceforth to enter the Cape Province.

(3) Women married in South Africa according to the rites of Indian religions, and going to India and returning with their husbands, will not be on the same footing as those married in India. Nor are the hundreds of women married according to non-Christian faiths provided for by the amendment.

(4) The Free State difficulty seems to remain as it was before.

With reference to the first point, in view of the fact that the Minister has respected the right of the South Africa-born Indians to enter the Cape, if they are born of Indian parents domiciled in South Africa, but not of indentured parents indentured after the Natal Act 17 of 1895,* it seems to me to be a small matter for the Government if they were to recognise the status of the descendants born in South Africa of those Indians who were indentured after the Act of 1895. I am sure the Government do not intend to set up distinctions between one class of Colonial-born Indians and another.

Nor can it affect the policy of the Government to recognise the right of domicile of such indentured Indians themselves. There could not be more than 7,000 such Indians at the outside. This number, compared with the Indian population of Natal, which is estimated at 133,000, cannot fairly be deemed a dangerous permanent increase to the Indian population, especially when it is borne in mind that these men are wanted by the Europeans of Natal.

To the Indian community both the first and the second points are of the highest moment. According to the judgment of the Natal Courts, these men, if they are paying the annual tax of £3, have a right to remain in Natal as permanent residents. Are they now to become prohibited immigrants? I presume that the Government do not intend to deport them; but do they intend to enforce the provisions of the Act as to trading or the holding of land by them?

As to the marriage question, the difficulty raised by me is, in my humble opinion, obvious, and calls for consideration.

As to the last point, in the correspondence that took place between General Smuts and myself, doubt was expressed whether, in spite of the reservation clause, the declaration referred to in Section 8 of Chapter 33 could be required of an Indian who might be permitted to enter that Province under the new Act. What the people of the Free State want, I hope, is not a humiliating declaration from an Indian immigrant, but his legal disability to hold land, to farm or to trade. If this be particularly mentioned in the Act itself, they cannot reasonably object to the removal of the clause which requires the declaration.

* See Act No. 17 of 1895.

For the moment, and for the purpose of a settlement, I do not raise the question of the ousting (now only partial, I admit) of the jurisdiction of the Supreme Court and the other drastic provisions of the Act, which at once make it far more illiberal than the previous Provincial Acts which it replaces.

If Mr. Fischer considers that it is possible for the Government to meet the Indian community and give an assurance that the necessary amendments will be made next year, and if he considers it worth while to discuss the points personally with me, I shall be pleased to wait on him. I hope that Mr. Fischer will see his way to consider my letter in the spirit in which it has been addressed. I beg to assure him that I have no desire to precipitate an acute crisis, which is certain to arise if no settlement can be arrived at between the Government and the Indians.

In the event of an appointment being made, it will be necessary to discuss at the interview the administration of the Act as to the admission of married women in cases where the marriage is not monogamous, as also the mode of regulating the entry of educated Indians. I do not discuss them here for fear of making this letter too long, and because I believe that, if the law can be set right, the question of administration is a comparatively easy matter.

I need hardly say that I have, throughout this letter, assumed that there are no other existing rights disturbed by the Act which have not formed the subject-matter of correspondence, telegraphic or written, between the Government and myself.

As I shall await your reply before advising my fellow workers, may I ask for a telegraphic reply?

I remain, &c.,
M. K. GANDHI.

P.S.—It will be seen that I am in Johannesburg. I am sending this letter per special messenger, in order to avoid delay.

The Private Secretary
to the Minister of the Interior,
Pretoria.

M. K. G.

Box 6522, Johannesburg,
2nd July, 1913.

DEAR MR. GORGES,

WITH reference to the interview [See No. 4] from wherever I may be.

I am, &c.,
M. K. GANDHI.

Department of the Interior,
Pretoria, 19th August, 1913.

DEAR MR. GANDHI,

REFERRING to our previous correspondence on the subject of the Immigrants Regulation Act, 1913, I beg to say that the points you raised have been fully considered by the Minister, and at General Smuts's request I will now indicate what view he takes of them.

1. Your first point was that the descendants of indentured Indians would not in future be able to enter the Cape Province by reason of the proviso to Section 5 of the Act. General Smuts requests me to submit that this is an entirely new point, and one not raised by you when all the matters at issue between the Indians and the Government were dealt with by you in your correspondence with him in January and February, 1912. Your letter of 29th January to the Private Secretary, and your telegram of 1st February, referred to the right of educated Indians to enter the Cape and Natal Provinces from other parts of the Union on passing the education test provided in the Immigration Laws of those Provinces, while your letter of 15th February, 1912, contained a specific statement that passive resisters could have nothing to complain of "if the present legal position, namely, the ability of educated Asiatics to enter Natal or the Cape from the Transvaal (and presumably from Natal

make it clear that the Union Government have all along regarded it as impossible to allow Indians born in Natal to migrate freely to the Cape, and until you raised the matter for the first time, in your telegram of April 9th of this year to me, the Minister was not aware that your community had any views on the subject at all.

The rights of the educated Indian inhabitants of any Province to enter the Cape and Natal by passing the education test prescribed in the recently-repealed Immigration Laws of those two Provinces are fully secured by sub-section (2) of Section 4 of our new law, and as you yourself pointed out in your last letter (2nd July)* to me, most of the Colonial-born Indians in Natal have passed through the Government Indian schools, and possess sufficient knowledge to undergo the Cape test. You also stated that it was a well-known fact that throughout the time the Cape Act was in force hardly any South African-born Indian not belonging to the Cape has endeavoured to migrate to that Province, as there is no scope for them there. In view of all these facts the Government cannot conceive that the Indian community now wishes to make a grievance of the fact that Provincial boundaries have been maintained in the new law, and General Smuts trusts that the position created by that law will be accepted. You will be aware also that the point was fully discussed in Parliament last Session, and the very strongest exception was taken by members representing constituencies in the Cape Province to any proposal for allowing non-educated Natal-born Indians to enter the Cape.

2. Secondly, in regard to the position of the ex-indentured Indian under the definition of "domicile" in the new Act, the Government takes the view that the provisions of paragraph (f) of Section 5 of the Act would apply to any such Indian who has resided under annual licence or pass in Natal for three years or more after his indentures expire, and who leaves the Province with the intention of returning thereto, and that this view is not affected by the definition of domicile in Section 30 of the Act.

3. Thirdly, with regard to the question of the declaration required under Chapter XXXIII. of the Orange Free State Law Book, General Smuts has no difficulty, and rather sees an advantage, in notifying all educated Indians admitted into South Africa of the disabilities that Indians are under in the Orange Free State. Steps will be taken to have these disabilities specified on the form of declaration which is required under Section 19 of the Act.

4. Fourthly, General Smuts is quite prepared, when some suitable occasion presents itself for dealing with the consolidation of the Marriage Laws of the Union, to make provision for the appointment of special marriage officers for denominations other than Mahomedan, upon its being shown that there is a demand by the members of such denominations for such appointments, and that there are suitable persons in the different communities on whom the appointments could be conferred. The present practice of admitting one wife of an Indian, now entitled to reside in any Province, or who may, in future, be permitted to enter the Union, irrespective of the fact that his marriage to such wife may have been solemnized according to tenets which recognise polygamy, or that she is one of several wives married abroad, will be continued so long as she is his only wife in South Africa; but General Smuts regrets that it will not be possible to go further and admit plural wives of Indians who are already resident in South Africa.

Believe me, &c.,
E. H. L. GORGES.

M. K. Gandhi, Esq.,
Phoenix,
Natal.

British Indian Association,
9, 10, 11, Loewenstein's Buildings, Market Street,
Johannesburg, 24th August, 1913.

DEAR MR. GORGES,

I THANK you for your letter of the 19th instant.

I have come to Johannesburg in order to attend the Doke Memorial Service, and shall be here for a few days. If, therefore, General Smuts desires my presence in Pretoria, I would be pleased to come over.

drew my attention to it. But I assured the friend that no difficulty need be anticipated, as the correspondence setting forth the provisional settlement of 1911 protected all existing rights of British Indians. I freely admit that I do not lay claim to a full knowledge of all such rights possessed by my countrymen throughout the Union or even the Transvaal. The fact that very few South Africa-born Indians avail themselves of the right was used by me to show that the Government had no occasion to fear a sudden influx into the Cape of South Africa-born Indians, if the right was retained. From the Indian standpoint, I wanted to emphasise the fact that we were fighting for the sentiment, namely, that the liberal and reasonable view taken by the old Cape Legislature should be left untouched. And I fear that I must press that view again on General Smuts's attention. I have already submitted that the Cape Members laid stress on the point, because the Right Honourable Mr. Fischer fostered, I submit, without a knowledge of the facts, the view that there was a large influx of South Africa-born Indians into the Cape. I observe that your letter seems to suggest that I am asking for a breaking of the Provincial boundary altogether. Though this would be a legitimate desire, I have not asked for it, as I know that it is no part of the provisional settlement.

As to the second point, I am glad that the Government interpretation agrees with that of the Indian community.

As to the Free State difficulty. The point raised by me has not been understood. I do not ask, for the sake of asking, that the attention of intending Indian immigrants should be drawn to the disabilities, but I have submitted that the wording of the new Act seems not to require the declaration in question at the Free State border. If such is also the Government interpretation of the Act, the Free State difficulty could be solved without any statutory alteration. In order to allay anxiety on the part of the Free Staters, I suggested that the disabilities in the Free State might be notified on the general declarations to be made at the first port of entry at coast. I need hardly say that I have assumed the legal possibility of an Indian being permitted under the new Act to enter the Free State.

As to the fourth point. The question of the validity of marriages already solemnised in South Africa of the resident Indian population, as also of the marriages hereafter to be solemnised within the Union, is of vast practical importance. A definite assurance that legislation will be introduced next Session is necessary to settle this very thorny problem. Regarding the plurality of wives, I have not asked for a general recognition of polygamy. All I contend is that, in continuation of the practice hitherto followed, existing plural wives of domiciled residents should be allowed to enter. And this was the assurance given in the letter quoted by me in my correspondence with you. The number of such wives could be easily ascertained at the present moment. And the toleration may be restricted only to the number so ascertained.

I observe that cases have already arisen in Natal out of the new Act. I cannot help remarking that the marriage case is inconsistent with the assurance contained in your letter under reply. For Kulsambibi is admittedly the only wife in South Africa of her husband. I would respectfully suggest that the case be withdrawn and the lady set free. The other cases are regarding domicile. The Government contention seems to be that, even where there is no dispute as to facts, or the *bonâ fides* of the holder of a certificate of domicile, his right should be impugned if he has been long absent from the Province of domicile. If such is the Government interpretation of the new Act, existing and *acquired* rights are threatened, and, in the event of a decision unfavourable to the Indian community, a position would be created that would be totally intolerable and inconsistent with the provisional settlement, as also the declarations of the Right Honourable General Botha and other members of the Ministry that there is no desire to harass the resident Indian population. I therefore venture also to suggest that these cases be withdrawn. I have assumed that you are fully aware of these cases. They are reported in the current issue of "Indian Opinion."

May I ask for an early reply?

I am, &c.,
M. K. GANDHI.

E. H. L. Gorges, Esq.,
Pretoria.

DEAR MR. SHAWE,

Box 6522, Johannesburg, 3rd September, 1913.

As I informed you through the 'phone to-day, I am leaving for Phoenix to-morrow. But before I leave I should like to draw General Smuts's attention to the eagerness and impatience with which many of my co-workers are looking forward to some final answer. Indeed, I have even been blamed for writing the first letter. Their impatience is natural. All our activity is at a standstill. Several have been obliged to refuse offers of handsome employment owing to the suspense. I hope, therefore, that among the many important matters that engage General Smuts's attention this will find its proper place. If nothing definite is vouchsafed by Tuesday next—the day given by you—may Mr. Gorges's letter be taken as the final answer? I would also like to mention that if the negotiations now going on prove abortive the struggle will be revived on a wider issue. Most important items have been omitted from my correspondence for the purpose of securing a settlement, and in order to show that we are not pining for a revival of the struggle.

I hope that General Smuts will appreciate the spirit in which this letter is written.

I am, &c.,
M. K. GANDHI.

H. B. Shawe, Esq.,
Pretoria.

TELEGRAM from MINISTER OF INTERIOR to GANDHI, Phoenix.

9 September, 1913.

Am directed by Minister reply your letter 24 August. As to first point, regrets he can add nothing to statement already made in my letter 19th idem. Second point calls for no further action. As regards third point, there is no difficulty, as any declaration made would be on entry into Union and not at Free State border. With regard to marriage question, cannot give any assurance that a marriage law will be introduced next Session on lines asked by you, which would, apparently, alter whole basis of existing law in South Africa. Your reference to an assurance given to you that plural wives would be admitted not understood, as I can find nothing in communications from this Department to that effect. Would you please elucidate? Regarding appeal cases at Durban, those you refer to are apparently still *sub judice*, and Minister would, consequently, not be able to interfere.

TELEGRAM from GANDHI, Phoenix, to MINISTER OF INTERIOR, Pretoria.

10 September, 1913.

Thanks for wire. Fear reply makes revival struggle imperative, notwithstanding every effort minimise points differences. Regarding polygamous marriages, refer Minister Association letter 5th July, 1911, and Interior reply 10th same month.

Department of the Interior,

DEAR MR. GANDHI,

Pretoria, 19th September, 1913.

I HAVE to acknowledge the receipt of your telegram of the 10th instant, in which you refer the Minister to a letter of the British Indian Association, dated the 5th June, 1911, on the subject of the Supreme Court judgment in the matter of the introduction of the plural wives of Asiatics into the Transvaal, and the reply of the Chief Immigration Officer of the 10th idem, in which he stated that if any case involving hardship were brought to the notice of the Minister it would receive consideration.

Your telegram was in reply to portion of a message from me, in which I queried the statement contained on page 3 of your letter to me, dated the 24th August last, where you said: "Regarding the plurality of wives, I have not asked for a general recognition of polygamy. All I contend is that, in continuation of the practice hitherto followed, existing plural wives of domiciled residents should be allowed to enter. And this was the assurance given in the letter quoted by me in my correspondence with you."

Officer's letter of 10th August, 1911, is not one which was ever contemplated, or one which would be accepted by the Minister.

You will, of course, understand that the paragraph of my telegram of the 9th instant, which read: "With regard to the marriage question, cannot give any assurance that a marriage law will be introduced next Session on lines asked by you, which would apparently alter whole basis of existing law in South Africa," referred to that portion of your request in which the question of the introduction of a law to validate Indian marriages already solemnized in South Africa was raised. The Minister has already intimated that the introduction of a Bill providing for the appointment of special marriage officers for denominations other than Mahomedan will be considered when an opportunity occurs; but your last letter appeared to make the issue considerably wider. If I am mistaken, or if the real point is obscured, will you please advise me?

Believe me, &c.,
E. H. L. GORGES.

M. K. Gandhi, Esq.,
Phoenix,
Natal.

DEAR MR. GORGES, Phoenix, Natal, 22nd September, 1913.

I AM much obliged to you for your letter of the 19th instant regarding the marriage question. I have not widened the original scope of my request. But I shall endeavour as clearly as possible to re-state the position.

It is submitted that authority should be taken from the Parliament during its next Session to legalise monogamous marriages already solemnized, or hereafter to be solemnized, by Indian priests among Indians belonging to non-Christian denominations. Legislation has become necessary only because the marriage clause in the new Act was hastily worded without considering the full position. Unless the relief now sought is granted soon the status of Indian women married in South Africa is that of concubines, and their children not lawful heirs of their parents. Such is, as I take it, the effect of the Searle judgment, combined with the action of the Natal Master of the Supreme Court and the Gardiner judgment. I have asked for a promise of amelioration during the next Session because I submit that the matter is one of urgency. With regard to polygamy, I have not asked for legal recognition, but the admission, under the powers vested in the Minister, of plural wives, without the Government in any way recognising the legal status. The admission is to be restricted only to plural wives already married to Indians who may be found unquestionably domiciled in the Union. This at once restricts the scope of the Government's generosity, and enables them to know now how many such wives will have to be admitted. I have already submitted a plan as to how this can be brought about. In my humble opinion, the letter of the 10th August, 1911, referred to in your communication, bears the interpretation I have placed upon it. The British Indian Association raised the question of polygamy, and the above-mentioned letter containing the assurance was the reply. I suppose you know that plural wives have actually been admitted by the Immigration Officers, and that polygamous unions are even registered on the Transvaal registration certificates?

As doubts have arisen as to the meaning of the term monogamous marriage, I beg to record that the meaning that the community has placed upon it is that a marriage is monogamous if a man is married to only one woman, no matter under what religion and no matter whether such religion, under given circumstances, sanctions polygamy or not.

I observe that paragraph 2 of your letter seems to suggest that my reply to your last wire did not cover, though it might have, the other points referred to therein. I purposely refrained from touching the other points, as I felt that no scope was left open for me to do so. But if General Smuts is still prepared to consider the other points, I shall be certainly prepared to make a further submission. I cannot help feeling that the unfortunate rupture has taken place on points very vital to the Indian community, but of little consequence to the Government or the dominant population of the Union.

Department of the Interior,
Pretoria, 27th September, 1913.

DEAR MR. GANDHI,

I BEG to acknowledge the receipt of your letter of the 22nd instant, in which, in response to my letter of the 19th idem, you re-state the views of the Asiatic community with regard to the question of the legalisation of marriages between members of that community in South Africa. I have submitted your communication to the Minister, who, after full consideration of the matter, requests me to say that it will not be possible for him to give any assurance that legislation on the lines indicated in Section 4 of my personal letter of the 19th ultimo to you will be introduced at the next Session of Parliament.

With regard to the other points to which you refer again briefly in the fourth paragraph of your letter, he desires me to say that he fears he can add nothing to what I have already said in reference thereto.

Believe me, &c.,
E. H. L. GORGES.

M. K. Gandhi, Esq.,
Phoenix,
Natal.

P.O. Box 6522,
Johannesburg, 28th September, 1913.

DEAR MR. GORGES,

I DO not know that I am justified in writing this letter to you, but, as you have been personally solicitous about the non-revival of passive resistance, and as, in the course of my conversations with you, I have so often told you that I have nothing to withhold from the Government, I may as well inform you of what is now going on.

I wrote to you from Phoenix in reply to your last letter, and if you have not yet replied to my communication, but intend to do so, I would suggest your sending your reply to my Johannesburg address, as I shall be here for some time at least.

The campaign has started in earnest. As you know, sixteen passive resisters, including four women, are already serving three months' imprisonment with hard labour. The resisters here were awaiting my arrival, and the activity here will commence almost immediately.

I cannot help saying that the points on which the struggle has re-started are such that the Government might gracefully grant them to the community. But what I would like to impress upon the Government is the gravity of the step we are about to take. I know that it is fraught with danger. I know also that, once taken, it may be difficult to control the spread of the movement beyond the limits one may set. I know also what responsibility lies on my shoulders in advising such a momentous step, but I feel that it is not possible for me to refrain from advising a step which I consider to be necessary, to be of educational value, and, in the end, to be valuable both to the Indian community and to the State. This step consists in actively, persistently, and continuously asking those who are liable to pay the £3 tax to decline to do so, and to suffer the penalties for non-payment, and, what is more important, in asking those who are now serving indenture, and who will, therefore, be liable to pay the £3 tax on completion of their indenture, to strike work until the tax is withdrawn. I feel that, in view of Lord Ampthill's declaration in the House of Lords, evidently with the approval of Mr. Gokhale, as to the definite promise made by the Government and repeated to Lord Gladstone, this advice to indentured Indians would be fully justified. That the tax has weighed most heavily upon the men I know from personal experience; that the men resent it bitterly I also know from personal knowledge. But they have submitted to it more or less with quiet resignation, and I am loth to disturb their minds by any step that I might take or advise. Can I not even now, whilst in the midst of the struggle, appeal to General Smuts and ask him to reconsider his decision on the points already submitted, and on the question of the £3 tax, and, whether this letter is favourably considered or not, may I anticipate the assurance that it will in nowise be taken to be a threat?

I am, &c.,
M. K. GANDHI.

Department of the Interior,
Pretoria, 30th September, 1913.

DEAR MR. GANDHI,

I BEG to acknowledge the receipt of your letter of the 28th instant from Johannesburg, in which you inform me of your intentions in regard to the revival of passive resistance.

I have shown the letter to General Smuts.

On the 27th instant I sent you a letter to Phoenix, as I did not know you were in the Transvaal, in reply to your previous communication of the 22nd idem from that place. I take it that by now it will have been re-addressed to you, so I am not enclosing a copy.

Believe me, &c.,
E. H. L. GORGES.

M. K. Gandhi, Esq.,
P.O. Box 6522,
Johannesburg.

No. 41.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 11 November, 1913.)

(Extract.)

Governor-General's Office, Pretoria,
23 October, 1913.

WITH reference to my despatch of yesterday,* and in continuation of my despatch of the 9th instant,† I have the honour to enclose further newspaper extracts, as noted in the margin, on the subject of the Indian passive resistance movement.

"Transvaal Leader," 10 October, 1913.

The first extract‡ contains a report of the proceedings at a meeting of Hindus which was held at Johannesburg on the 9th instant. You will observe that, in addition to Mr. Gandhi and other prominent members of the community, several European sympathisers were present, including Mr. Ritch, Mr. Kallenbach, and Mr. Rogers, and that the meeting was addressed by Mr. Hosken. A resolution in support of the movement was passed. The extract concludes with a statement recording the arrest at Volksrust of seven more Indians, two of whom are said to have been Muhammadan ladies from Durban.

"Rand Daily Mail," 18 October.‡

A new phase of the campaign was inaugurated by Mr. Gandhi on the 17th instant, when he visited the Natal coalfields and induced a number of indentured Indians employed in local mines and hotels to strike work until the Government should promise to repeal the £3 tax during the next session of Parliament. The adoption of this policy was foreshadowed in Mr. Gandhi's letter of the 28th ultimo to Mr. Gorges, a copy of which will be found in the correspondence accompanying my despatch of yesterday.* I have not yet been able to obtain full particulars as to the development of the strike movement, which, so far as I can judge, does not appear to be causing the Government much anxiety. Some

"Rand Daily Mail," 23 October, 1913.

"Transvaal Leader," 23 October, 1913.

little light is thrown on the subject by the attached extracts from the "Rand Daily Mail"‡ and the "Transvaal Leader" of to-day. It will be seen that Mr. Gandhi estimates the number of strikers at 2,000, and says that six collieries are affected, whereas nine collieries are mentioned by the Durban correspondent of the "Transvaal Leader."

At the end of the extract from to-day's "Transvaal Leader" (enclosure No. 4), you will find a repudiation by General Smuts of certain statements on Indian marriage and divorce which were attributed to him last week by a correspondent of the "Rand Daily Mail." The relevant extract from the issue of that paper published on the 15th instant is appended. This report of the Minister's reputed *obiter dicta* provoked strong protests from a meeting of the

"Rand Daily Mail," 15 October.

Hamidia Islamic Society at Vrededorp, on the 19th instant, and from Mr. Ritch, as will be seen upon reference to the enclosed extracts* from the "Rand Daily Mail" of the 20th and 21st instant. Particular exception was taken to the alleged remark by General

"Rand Daily Mail," 20 October.

"Rand Daily Mail," 21 October.

Smuts that Muhammadan divorce consisted simply in "telling a woman to voetsak." The word "voetsak" is of doubtful etymological origin. By some authorities it is regarded as a contraction of "voort zeg ik" (get away, I say), but whatever its derivation may be, it is commonly used in South Africa for chasing away animals, and it has acquired a peculiarly offensive connotation. In these circumstances a disclaimer by the Minister was desirable.

I would invite attention to the report printed at the end of the accompanying extract* from the "Rand Daily Mail" of the 20th instant (enclosure No. 6), and to the fuller account of the proceedings at a mass meeting of Durban Indians on Sunday last, as printed in the "Transvaal

"Transvaal Leader," 21 October, 1913.

Leader" of the 21st instant (enclosure No. 8). Mr. Gandhi's policy appears there to have been subjected to very hostile criticism, and before the meeting broke up in some disorder, after a three hours' sitting, it seems to have passed what he himself described as a vote of no confidence in him. In the statement printed at the beginning of enclosure No. 3* ("Rand Daily Mail" of the 23rd instant), Mr. Gandhi described the report of the meeting as incomplete and inaccurate, and said that subsequently another meeting was held with results entirely satisfactory to himself.

In the same newspaper extract* (enclosure No. 3) it is stated that eleven of the women who, as reported in the third paragraph of my despatch of the 9th instant,† failed in securing arrest at Vereeniging, were equally unsuccessful when they crossed the Transvaal frontier into Natal, but that they proceeded to the scene of the strike in the coalfields, and, upon conducting an agitation among the indentured Indians there, were charged as vagrants and sentenced to three months' imprisonment by the magistrate at Newcastle.

"Rand Daily Mail," 21 October.

The last enclosure* records the detention at Volksrust on the 20th instant of 13 Indians who crossed the border from Newcastle.

It also refers to a private interview which Lord Emmott granted to Mr. Hosken at Johannesburg.

Enclosure 4 in No. 41.

Extract from the "TRANSVAAL LEADER," of October 23rd, 1913.

INDIANS AND DIVORCE: A DISCLAIMER BY GEN. SMUTS.

Pretoria, Wednesday.

In view of the publicity which has been given to certain allegations attributed to General Smuts in an interview reported in a Pretoria paper on the subject of the Asiatic question, the Minister of Finance, through his private secretary, states as follows:—"In the interview General Smuts was reported to have spoken in contemptuous and opprobrious terms on the subject of Indian marriage and divorce. He desires to deny most emphatically and repudiate both the expressions and the sense of the words attributed to him by the correspondent of the paper referred to."

Enclosure 5 in No. 41.

Extract from the "RAND DAILY MAIL," Johannesburg, Wednesday, October 15, 1913.

MAHOMMEDAN MARRIAGES: GOVERNMENT WILL NOT RECOGNISE THEM.

Pretoria, Tuesday.

General Smuts made a short but decisive statement this morning in connection with the Indian question.

There are, he said, only two questions outstanding between the Indian community and the Government. The first is the recognition of polygamy, on which the Government is not prepared to give way. The Government will not recognise Mahommedan marriage which allows polygamy, and in which divorce takes the form of simply telling a woman to voetsack. Mahommedans must be married according to the law of the Union. In addition, they object

to a special law being passed applying to Indians only, and the Government are not prepared to pass one which would apply also to white people.

The second point is the question of allowing Natal indentured Indians and their children to go into the Cape. This question was fully discussed in Parliament at the last session, and the Cape members were very much opposed to it.

The Government say that Indians must pass the educational test applied to white people under the new Immigration Act.

Enclosure 8 in No. 41.

EXTRACT FROM "TRANSVAAL LEADER," OCTOBER 21ST, 1913.

LED TO DEAD WALL.

INDIANS AND MR. GANDHI.

LIVELY MEETING AT DURBAN.

(FROM OUR OWN CORRESPONDENT.)

Durban, Monday.
A mass meeting representative of the local Indian community, and numbering 3,000, was held yesterday in connection with the passive resistance movement. Mr. Gandhi was present, and, having given it as the reason for his not attending the Natal Indian Congress that he considered the joint secretaries should resign, the latter tendered their resignations at this meeting. Mr. M. C. Anglia accompanying it with some long written remarks, which concluded as follows:—"I take the liberty of informing you as a friend of the community who has its interest at heart, and who has laboured practically for a long number of years for its welfare, that as long as we have a professional and political agitator at the head of affairs, and as our leader, we are doomed to failure with the Government and European public of South Africa. You are well aware that for close on twenty years we have confided and trusted the person aforesaid with our lives and liberties, but we have been led to a dead wall, and the rights we had possessed before his advent have been curtailed so thoroughly owing to his provocative and inefficient policy as a leader and a statesman that we find ourselves to-day not far removed from the position of slaves, serfs, and helots, and an eyesore to the European community, instead of being, as we were before his advent, their friends and co-subjects of the same Empire. You have no doubt seen the demands made on behalf of the South African Indian public as supplied to Reuter's Agency, which have been supplied without consulting responsible Indian opinion, and hence, if the said demands had been submitted to the Indian plebiscite of South Africa, a *modus vivendi* could have been found, and the demands could have been amended for the betterment and welfare of our community in South Africa. I am sure that the Government would have favourably considered and accepted such amendments."

Mr. Dada Osmon also handed in his resignation, and said that he fully associated himself with the remarks made by his co-secretary.

Mr. Gandhi then rose, and in a most impassioned speech said that the remarks accompanying Mr. Anglia's resignation could only be taken to be a vote of no-confidence in him (the speaker). If the meeting, by a majority of those present, were disposed to pass a vote of no-confidence in him, he would take it calmly, and he exhorted those who were in the minority and who were willing to support him to take the verdict of the majority in silence; but he thought that the meeting should accept the resignations, and that the secretaries should not stand for re-election.

It was evident that the meeting was not inclined to follow Mr. Gandhi's advice, and on the chairman asking the audience if they were willing to accept the resignations, the huge crowd cried out "No! No!" and hence the resignations were not accepted.

Mr. Hassim Jaama said that it was of absolutely no good Mr. Gandhi asking for the resignation of people who did not agree with him; but he (the speaker) contended that if the people did not agree with Mr. Gandhi, it was for Mr. Gandhi to resign his position of leader and leave the country.

After this several speakers attempted to address the meeting, but they could not get a hearing, and the meeting broke up after a three hours' sitting.

No. 42.

THE GOVERNOR-GENERAL TO THE SECRETARY OF STATE.

(Received 11 November, 1913.)

[Answered by No. 50.]

SIR,

Governor-General's Office, Pretoria, 23 October, 1913.

I HAVE the honour to enclose herewith, for your information and for transmission to the Secretary of State for India, the accompanying copy of a letter from Mr. Gabru, forwarding copies of resolutions passed at a meeting of the Hamidia Islamic Society, held at Vrededorp, on the 19th October, on the subject of Muhammadan marriages.

2. I have communicated a copy of the resolutions to my Ministers

3. The first resolution presumably refers to some expressions attributed to General Smuts in the "Rand Daily Mail" on the 15th instant.* These are emphatically repudiated by the Minister in a communication published to-day in the "Transvaal Leader."†

I have, &c.,

GLADSTONE,

Governor-General.

Enclosure in No. 42.

THE HAMIDIA ISLAMIC SOCIETY TO THE GOVERNOR-GENERAL.

SIR,

P.O. Box 6031, Johannesburg, 20th October, 1913.

I HAVE the honour to enclose herewith, in triplicate, copies of resolutions unanimously passed at a meeting of the Hamidia Islamic Society held yesterday at Vrededorp, and to request that His Excellency will be good enough to forward copies thereof to the Hon. the Secretaries of State for the Colonies and India.

I have, &c.,

A. J. GABRU,

Chairman of the Meeting.

The Private Secretary

to His Excellency Lord Gladstone,
Pretoria.

RESOLUTION I.

This meeting of the Hamidia Islamic Society has read with pain and surprise the report of the reference by General Smuts to Mahomedan marriage and divorce, and desires the Chairman to record its protest against General Smuts's misrepresentation of the facts and against the offensive terms in which his remarks would appear to have been couched.

Certified correct:

A. J. GABRU,

Chairman of the Meeting.

19 October, 1913.

RESOLUTION II.

This meeting of the Hamidia Islamic Society further resolves to forward a copy of the foregoing resolution to the Indian Government, the Imperial Government, and the All-India Moslem League in India and England, and earnestly requests that representations be made to preserve the status of Mahomedan marriages and to protect Mahomedan subjects of the Crown from insults and attacks of this nature.

Certified correct:

A. J. GABRU,

Chairman of the Meeting.

19 October, 1913.

No. 43.

THE GOVERNOR-GENERAL TO THE SECRETARY OF STATE.

(Received 7.10 p.m., 17th November, 1913.)

TELEGRAM.

(Extract.)

17th November. Minister of Justice now in charge here informs me that 2,000 Indians employed by municipalities, railways, and boating companies at

Durban have struck. General Lukin has asked for 200 mounted police. Fifty sent, fifty go to-day. Indians generally quiet, excepting a fracas at Mount Edgcombe sugar plantations; one policeman and about thirty natives injured.

No. 44.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 18 November, 1913.)

SIR, Governor-General's Office, Pretoria, 30 October, 1913.
I HAVE the honour to transmit to you herewith, with reference to my despatch of the 9th October,* a copy of a minute, No. 1027, from Ministers, dated 29th October, on the subject of the recent judgment of the Natal Provincial Division of the Supreme Court interpreting the expression "monogamous" in Section 5 (g) of the Immigrants Regulation Act.

I have, &c.,
GLADSTONE,
Governor-General.

Enclosure in No. 44.

MINISTERS to GOVERNOR-GENERAL.

(Minute, No. 1027.)

Prime Minister's Office, Pretoria, 29 October, 1913.

With reference to His Excellency the Governor-General's minute, No. 15/482, of the 8th instant, on the subject of a recent judgment of the Natal Provincial Division of the Supreme Court interpreting the expression "monogamous" in Section 5 (g) of the Immigrants Regulation Act, Ministers have the honour to state that had there not been a clear indication that gross misrepresentations had been made to the Immigration Officers by the parties interested in securing the admission into Natal of the Asiatic woman Kulsumbibi it is unlikely that the necessity for submitting the matter to a Superior Court would have arisen at all.

LOUIS BOTHA.

No. 45.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 18 November, 1913.)

SIR, Governor-General's Office, Pretoria, 30th October, 1913.
I HAVE the honour to inform you that I duly communicated to my Ministers your telegram of the 9th October,† with reference to the passive resistance movement and the working of the Immigrants Regulation Act, and to transmit to you herewith a copy of a minute which I have received from them in reply.

2. A copy of the minute of the 25th September, No. 906, to which Ministers refer, accompanied my despatch of the 27th September.‡

I have, &c.,
GLADSTONE,
Governor-General.

Enclosure in No. 45.

MINISTERS to GOVERNOR-GENERAL.

(Minute No. 1031.)

Prime Minister's Office, Pretoria, 29th October, 1913.

With reference to His Excellency the Governor-General's minute, No. 15/486, of the 18th instant, transmitting a copy of a telegram from the Right Honourable

the Secretary of State for the Colonies on the subject of the working of the Immigrants Regulation Act, Ministers have the honour to state that they do not think they can at present add anything to their minute, No. 906, of the 25th ultimo, relating to the same matter.

LOUIS BOTHA.

No. 46.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 18 November, 1913.)

(Extract.)

Governor-General's Office,
Pretoria, 30 October, 1913.

IN continuation of my despatch of the 23rd instant,* I have the honour to report that interest in the Indian passive resistance movement is now concentrated on the strike in the Natal coal mines.

You will observe from the enclosed press extracts† that Mr. Gandhi on Saturday last estimated the number of strikers at 3,000 (*Transvaal Leader*, 27th October, 1913). Rumours are current to-day that a body of 1,400 or 1,500 strikers are marching on Newcastle with the intention of crossing the Transvaal frontier at Volksrust.

The text of a telegram from General Smuts to the Natal Coal Owners' Association, denying that the Government had given Mr. Gokhale a promise to repeal the £3 tax, will be found in the accompanying extract from the *Transvaal Leader* of the 29th instant. In a speech at a meeting of the South African Party in his constituency on Tuesday, the Minister repeated that denial, and added some words of warning to the Indian community. I quote the passage as reported in the *Transvaal Leader* of yesterday:—

"What were the Indians in Natal doing at the present time? The £3 tax ex-indentured Indians had to pay in Natal was part of the contract they had signed in India, and now they were going out on strike for the removal of this tax. He said in all seriousness to the Indian community of South Africa that there was not salvation in the step they were taking on the advice of their leaders. It was said that the Government had promised Mr. Gokhale that the tax would be removed; nothing of the sort was the case. The Government had told Mr. Gokhale that the tax was a matter of policy rather than of finance, and had promised to consider the question in consultation with the representatives of the people of Natal, and that had been done. The result was unfavourable to the removal of the tax. The Indians were being grievously misled on the subject to-day. The position of the Indians in South Africa, he would say, was not by any means so secure that they could afford to trifle with the laws of the Union, and the course they had at present embarked upon would do them little good."

Other press reports of the speech differ slightly from that quoted above, and, as the Minister spoke in Dutch, the extract should be taken as reproducing the general sense of his observations, rather than the precise words which he used. It is not clear whether he spoke of the position of Indians in South Africa, or only of the position of Indians in Natal, as being relatively insecure.

The substance of a telegram from Mr. Gokhale to the Natal Indian Association, re-affirming his statement as to the alleged promise by the Union Government, will be found in the enclosed extracts from the *Transvaal Leader* and the *Rand Daily Mail* of to-day.

The last-mentioned paper contains a report of a meeting of Hindus at Johannesburg yesterday, at which, *inter alia*, it was stated that about 150 passive resisters were in gaol, and the number of strikers in Natal was estimated at 4,000. The speeches delivered both by Indians and Europeans at this meeting were couched in language which is not likely to evoke a conciliatory response.

The last enclosure‡ (*Rand Daily Mail*, of 25th October, 1913) contains a letter from Mr. Ritch, expressing satisfaction at the repudiation by General Smuts

of the statements which had been attributed to him with regard to Muhammadan marriage and divorce. In this connection, I may refer to the fourth paragraph of my despatch of the 23rd instant.*

Enclosure 5 in No. 46.

EXTRACT from "TRANSVAAL LEADER" of October 27th, 1913.

NATAL CONFERENCE.

MR. GANDHI ON HIS DEMANDS.

Durban, Saturday.

In connection with the Indians' strike, a meeting of representatives of commercial interests, called by Mr. Otto Siedle, a leading member of the Natal Coal-owners' Association, was held in the Chamber of Commerce this afternoon, when there were present representatives of the coal-owners, the Agricultural Union, the Natal Sugar Association, and Durban merchants, together with Mr. Gandhi, who was there by invitation. The proceedings were private, and Mr. Gandhi, who was seen afterwards by a "Mercury" representative, said that as everything was strictly private he could make no statement as to what had transpired. As to the truth of a statement that the strike was concluded, Mr. Gandhi said that he had telegrams from the various colliery centres stating that the strike was continuing, and would continue. Proceeding, he said about 3,000 men are out on strike, and the effect of this is not entirely to close the coal mines, because they have a certain amount of Kafir labour. With this Kafir labour and the Europeans they are able to do some work, although the bulk of the work is at a standstill. "It is reported," he continued, "that we might even ask the Kafirs to strike, but this is not our intention at all; we do not believe in such methods. We have nothing against the employers as such, but as the employers are supposed—at least some of them—to have opposed the repeal of the £3 tax, this demonstration has become necessary. The original intention was that the men were to be withdrawn from the collieries in order to court arrest and imprisonment in Natal, or, failing that, to cross the border to the Transvaal. Pending the result of the conference which has just been held, this movement is suspended, so that the position is that these Indians are out on strike, but have not left the mines. The idea behind this is that it was not a proper thing to draw rations from the mine-owners, and yet not to work, although, personally, I felt that the strike was weak as long as the men did not actually leave the mines. What will happen now will depend upon the result of to-day's conference. As soon as the Government promises to repeal the £3 tax next session the strikers will be advised to resume work. Of course, there are other grievances, including the marriage question, the question of domiciliary rights, and the harsh administration of existing laws, as in the case of the Gold Law in the Transvaal and the right of South African-born Indians to enter the Cape, &c., so that even if the promise to repeal the £3 tax is given, passive resistance, without the strike, will continue. If to-day's conference ends in a fiasco, we shall certainly endeavour to widen the area of the strike, but I am unable to say what response we shall have. We shall, however, wherever indentured Indians or ex-indentured Indians are working as labourers, advise that they should strike."

Mr. Gandhi also stated that no intimidation whatever was used against non-strikers, and that the strike was absolutely voluntary and spontaneous. For the relief of the strikers a subscription was being raised in Durban, and 110 bags of rice, together with oil and other necessities of Indian life, were promised, and the bulk has already gone forward, while the collections are still going on.

Enclosure 7 in No. 46.

EXTRACT from "TRANSVAAL LEADER" of October 29th, 1913.

NATAL INDIANS.

NO REFUSAL OF THE £3 TAX: THE GOVERNMENT'S MESSAGE.

Pretoria, Tuesday.

On the subject of the Natal Indians and the various references made in the press to the repeal of the £3 tax, General Smuts, as Acting Minister of the Interior, has sent the following wire to the Coal-owners' Association, Durban:—

"Re your telegram, Government never gave such promise as Gandhi alleges, either to Gokhale or anybody, elsewhere. Gokhale, at interview with some members of Government, made strong point of repeal of £3 tax in Natal. Government replied that tax was unimportant from revenue point of view, but was imposed as matter of policy in Natal. Government promised to consult members Parliament Natal, and if they had no objection on grounds of policy, Government would take question of repeal into favourable consideration. Government carried out their promise by consulting Natal members, majority of whom objected to repeal of tax otherwise than as affecting women and children. Government feel that promise of repeal under present state of affairs would be public disaster, with consequences which none can foresee, and are not disposed to consider it."

"With Gandhi repeal of tax is an afterthought, and is intended to influence Natal Indians, to whom the real grounds on which he has started his passive resistance movement, and which never included this tax, do not appeal."

Enclosure 10 in No. 46.

EXTRACT from "RAND DAILY MAIL" of October 30th, 1913.

INDIAN MINERS THRASHED: SERIOUS ALLEGATIONS: MINISTER'S STATEMENTS DENIED: 150 PASSIVE RESISTERS IN GAOL.

Yesterday was a holiday among the Hindu community in Johannesburg and along the Reef, and close upon five hundred of them gathered at the West End Hall, Ferrierastown, to join in a passive resistance protest, and also to mourn the fate of those who are in gaol. The stage was decorated with flowers, and Mr. William Hosken, who was one of the principal speakers, was again garlanded with roses. There were several Europeans on the stage, and the chair was taken by Mr. S. K. Patel.

In his opening address Mr. Patel said that the Government had betrayed them for the third time, and proceeded: "To-day some one hundred and fifty of our countrymen and countrywomen are suffering imprisonment in the gaols of South Africa. And so this day, which should be one of rejoicing and festivity, is one of sadness and mourning. Let us turn it to good account for the sake of the cause. If we cannot all go to prison, let us at least all combine in assisting by every means in our power those who do go, those who are sacrificing their all. I need not remind you of the great strike movement that is now going on in Natal as a demonstration against the Government's failure to carry out its undertaking to repeal the £3 tax. We understand that some four thousand persons are already affected. Provision must be made for such of these men and their families as are not successful in being arrested. It is, therefore, imperative that every Indian should now come forward and contribute as much as he is able."

Regarding the passive resistance movement, he said they might use none but moral suasion. And not only did passive resisters refrain from offering violence, but they did not even use violence in self-defence. He quoted a case which had, he said, occurred on a Natal mine. An ex-indentured labourer, who had struck work, subsequently went to the mine compound to fetch water. He was immediately pounced upon by a mine official, dragged to an office and beaten so severely with a stick that the marks left were visible as brand marks. When the stick broke in the use, the man was kicked about and struck in the mouth until blood flowed. The worker in question was a powerful man, much more powerful than his assailant, but, having received instructions to refrain from all violence, he did not retaliate, but bore the assaults patiently. Mr. Kallenbach, who was down in Newcastle recently, told of another such incident. Among the men who came to see him was one who had been severely sjamboked for desiring to go to hear what the leaders had to say. The man bore the marks of the assault on his arms and legs, and had had to walk all night in order to attend the place of meeting. So that it would appear that not only were passive resisters not intimidators, but they were sought to be intimidated—if, indeed, a passive resister ever could be intimidated—by every insult and every violence.

"And now," proceeded the speaker, "I would draw your attention to one point more. In the course of his reply to the Coal Owners' Association, published in the morning papers, General Smuts denies that a promise was ever given to Mr. Gokhale with reference to the £3 tax. Can we be blamed in taking the word of our great countryman—which is above all suspicion—in preference to that of General Smuts, who has thrice broken his pledge to the community? This promise was referred to by Lord Amptill, in his speech recently delivered in the House of Lords, in the following terms: 'The Ministers in South Africa definitely promised Mr. Gokhale that this £3 poll tax should be repealed, and Ministers told the Governor-General that they had given him this promise. It has been referred to by the communal leaders on many occasions, and it was referred to on the most recent occasion in the letter directed to the Government by Mr. Hosken on behalf of the European Committee; but never previously has it been refuted by General Smuts.' The General is further reported as follows: 'With Mr. Gandhi the repeal of the tax is an after-thought, and it is intended to influence the Natal Indians, to whom the real grounds on which he has started his passive resistance movement, and which never included this tax, do not appeal.' We deny emphatically this statement, and say that General Smuts should know that it is not true. It is a fact that the repeal of the £3 tax was not included in the original demands of passive resisters, but, when the Government failed to carry out the settlement of 1911, and when even then the negotiations which Mr. Gandhi was authorised to enter into with the Government—and which, if successful, would have just, and only just, sufficed to fulfil the letter of the provisional settlement—proved abortive, the community felt that the struggle should be reopened on a wider issue, and notice of this was given to the Government by Mr. Gandhi in his letter of September 3. The promise given to Mr. Gokhale we hold was a promise given to the Indian community. It therefore became our sacred duty to offer passive resistance until the tax was repealed. The Natal workers have been appealed to because they specially are affected by the tax. Mr. Gandhi has stated not once, but repeatedly, that these men are out on the question of the £3 tax alone, and that immediately the Government give an undertaking that this tax will be abolished during the next session of Parliament the men will be advised to return to work. Their assistance has not been invoked in connection with the general struggle." (Applause.)

Mr. William Hosken, who was uproariously cheered, said he must advise them that he thought the Indian people were entirely in the right in their movement. Such a strong statement would have very strong criticism from those of his own race and blood; but yet he was convinced that it was the right thing. General Smuts's explanation did not carry conviction; when a Minister of the Crown of any part of the Empire descended to the ways and methods of the sophist it was a very dangerous position, especially when the matter in question was a promise made to one of the first statesmen of the Empire, Mr. Gokhale. (Loud applause.) When such a solemn compact was broken there must be trouble. It was not the

not have understood its significance although the recruiter in India did. The Indians did not understand that they had contracted to pay one-third of the highest rate of wage they would receive at the end of their terms of indenture. He compared the action of General Smuts in regard to the Indians with his statements on the repeal of the Townships Act. There was no question of sticking to the letter of the law in that case, because it concerned white people. General Smuts had said on that occasion that they could not proceed on scientific principles, but upon principles of justice and equity. The tax was iniquitous, and when General Smuts said that the white people as a whole did not want Indian immigrants he was altogether wrong. If the Government did not want the tax for revenue purposes then what did they want it for? The Indian people had no voice in Parliament and their only way of pressing their grievances was by means of the present movement. The tax pushed them down in the social scale and drove their women into immorality. A Government which imposed such a tax, which pushed one section of the community down, was a wrong Government. (Applause.) The people of England did not understand that this iniquity was being perpetrated upon the Indian people in South Africa. (Applause.)

Mr. L. W. Ritch referred to the great Hindoo festival, and congratulated his hearers upon using the weapons of the soul and not the weapons of the mob—the bomb and the bludgeon. The passive resistance strike would be an education to the white people in South Africa and the rest of the world. General Smuts wanted to make the Indians of South Africa helots—slaves. If the oppressed community had votes General Smuts would not dare to treat them as he had. It was not the conduct of a brave general, but he would be brought to his knees. The speaker urged them to use their present methods and they must come out victorious. (Applause.)

The Rev. John Howard expressed his profound appreciation of the spirit the Indians had displayed in their trial. He encouraged them in their noble project, and said that General Smuts had made the mistake of his life. Whether their success was immediate or not the courage of their actions would be one of the proudest heritages they could hand on to their children. (Applause.)

The Chairman of the African Political Association spoke of the Cape coloured people, and expressed sympathy. He said that their coloured women were, many of them, in gaol in Bloemfontein for passively resisting the pass law.

The following resolutions were carried unanimously:—(1) This meeting of the Hindus of Johannesburg, gathered together on the occasion of the Divali Festival, once again expresses its strong approval of the passive resistance movement, resolves to support the movement by every means in its power, and congratulates those passive resisters—men and women—who are already suffering imprisonment in the South African gaols. (2) This meeting of the Hindus of Johannesburg hereby authorises the chairman to forward a report of its proceedings to the Hon. Mr. Gokhale, to the British Indian Committee in London, and to the Union Government.

Mr. Kallenbach, acting hon. secretary of the British Indian Association, has gone to Newcastle, the scene of the strike.

After the meeting the Indians formed a procession and quietly marched along Fox and Commissioner Streets to the house of the chairman. The procession was headed by two men carrying black flags, and those who took part in it wore black rosettes to mark the sufferings of the community.

GOKHALE AND GOVERNMENT: CABLE FROM INDIAN STATESMAN.

Durban, Wednesday.

In connection with General Smuts's statement regarding the Indian £3 tax, the Natal Indian Association cabled to the Hon. Mr. Gokhale at Poona, asking him if the Government had given him any undertaking to repeal the tax. To-day Mr. Gokhale has cabled his reply. He says he received a definite assurance for the repeal of the tax, whereupon he asked for authority to make the announcement, but the Minister said it was necessary to mention the matter first to the Natal members, and suggested that he (Mr. Gokhale) should merely state that Ministers had promised the matter most favourable consideration.

INSULTS FOR THE MANAGERS: OVERTURES REJECTED BY STRIKERS: DOOR SLAMMED IN MAGISTRATE'S FACE.

Durban, Wednesday.

The Coal Owners' Society held a meeting this morning, when it was decided to inform the press as to the attitude of the Society in connection with the strike of Indian miners. The majority of the collieries have up to the present issued rations day by day to their Indian employees on strike.

On Tuesday morning, after receipt of a telegram from the Minister, it was decided to despatch instructions to mine managers to convey its contents to the Indians, and to inform them that, provided they returned to work to-day, the time they would have lost would be treated as a holiday, and no steps would be taken against them for breach of contract. The managers were also instructed to point out to the Indians that the owners could do nothing outside the law, and as Parliament would not meet possibly until February, there was no prospect of their grievances being remedied for several months.

The managers assembled the Indians on the mines this morning, but they declined to listen, insulting the managers, and intimating that they were only there to work.

the purpose of addressing the Indians there. They declined to recognise the Magistrate's authority, and to assemble, as he requested, but he, in an endeavour to carry out instructions, proceeded to the Indians' compound, when the door was slammed in his face.

In view of the unwillingness of the Indians to accept the terms offered, instructions have now been sent to the various managers to stop their rations, and to arrest any ringleaders who may be intimidating any Indians willing to work. According to reports received this morning, the Indians on the Cambrian and Durban Navigation Collieries have left in a body and are proceeding towards Newcastle.

Later.

A telephone message has been received from Newcastle this evening stating that Mr. Dunning, the Assistant Protector of Indian Immigrants, now at Newcastle, has persuaded the Indians from the Cambrian Colliery, who were *en route* to Volksrust, to return to the mine.

No. 47.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 5.30 p.m., 18th November, 1913.)

TELEGRAM.

Natal Indian Association, Durban, request me to send you following message:—

Indians mass meeting, over 5,000 present, strongly condemned Government of Union of South Africa attitude arrest imprisonment Gandhi, Kallenbach, Polak, and others for striking demonstration of intense feeling against £3 tax. Strikers imprisoned. Mines proclaimed temporary gaols. Brutally assaulted, flogged, some shot at, wounded. One died to-day result flogging. Strikers confined estates under police guard. Thousands continue come out. Situation getting serious every hour. Increasing difficulty feeding people and keeping order. Active, prompt, intervention by Imperial, Indian Governments necessary lest greater hardships ensue, even many lives may be lost.

Copy communicated to Ministers.—GLADSTONE.

No. 48.

INDIA OFFICE to COLONIAL OFFICE.

(Received 19 November, 1913.)

India Office, Whitehall, London, S.W.,

18th November, 1913.

SIR,

WITH reference to recent correspondence on Indian questions in South Africa, I am directed by the Marquess of Crewe to transmit for the information of Mr. Secretary Harcourt the accompanying copies of unofficial telegrams* from India received at this Office.

His Lordship views with the gravest concern the impression produced in India by telegraphic reports from South Africa alleging that Indians in Natal have been treated with great severity, and would suggest that it is most important to obtain as soon as possible an authoritative statement of the facts in order that the Government of India may be correctly informed.

If Mr. Secretary Harcourt sees no objection, it would save time if Lord Gladstone were to repeat to the Viceroy of India any telegram he may send to the Colonial Office in answer to the enquiry.

I have, &c.,

T. W. HOLDERNESS.

No. 49.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 8.30 p.m., 19th November, 1913.)

TELEGRAM.

19th November. By Government Notice of 12th November, published in Gazette on 14th November, ten mine compounds in Dundee District and one in Newcastle District were declared out-stations to Dundee and Newcastle gaols, respectively, under provisions of Section 13 (1) of Act No. 13 of 1911.* This step essential because of want of accommodation in the ordinary prisons in view of large number of Indians who were marching in organised bands with avowed purpose of defying the law, and actually courting arrest. Only Indians actually committed by a Court can be received into these out-stations. No others can be accommodated therein even as free men.

Conversion of mine compound into a gaol out-station does not convert ordinary occupants into prisoners. Compound out-stations are under control of (1) Magistrates of districts who are in charge of district gaol; (2) gaoler of district gaol; (3) regular warders of Prisons Department who have been placed in charge of each of these out-stations. Members of mine staffs have been sworn in as warders for purposes of out-stations. In addition at least one trained prison warder has in each case been placed in charge. All persons employed in connexion with these out-stations fall under Act No. 13, of 1911, and statutory regulations thereunder.

In Dundee District only indentured Indians sentenced under Natal Act No. 25, of 1891, have been confined in out-stations. In no case have sentences on indentured Indians exceeded seven days, and last of such sentences in Dundee District expire to-morrow. In Newcastle District some unindentured Indians sentenced to longer terms under Masters and Servants Act, Ordinance, No. 2, of 1850, are confined in out-stations. Warders in Dundee District may possibly be retained until Saturday in case Indians whose sentences have been suspended might have to be imprisoned should fresh outbreak occur.

Government of Union of South Africa has received no complaint as regards ill-treatment of Indians at Natal mines, except from Lazarus, Chairman, Newcastle Indians, who made general allegations. Magistrate, Newcastle, has telegraphed that there is absolutely no truth in the allegations of ill-treatment at Ballengeich. Prisoner 125, presumably Narjia, died of tuberculosis, and had not been on hard labour. Ballengeich is the only compound gaol out-station in the Newcastle District.

Under regulations prison officials may only use force in self-defence, and in no case for purpose of coercing prisoners to work. Am confident that my Ministers would deal severely with offenders should any case of ill-treatment occur in the prisons or out-stations. Indians at Ballengeich working quietly in the mine yesterday. The false or exaggerated statements which seem current in England and India are most mischievous. Whole object of Ministers is the essential restoration of order. There will be no ill-treatment, and force will only be used to put down unprovoked violence by strikers themselves.—GLADSTONE.

No. 50.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

MY LORD,

Downing Street, 19 November, 1913.

I HAVE the honour to acknowledge the receipt of your Excellency's despatch, of the 23rd ultimo,† forwarding a copy of resolutions passed at a meeting of the Hamidia Islamic Society at Vrededorp on the subject of Mahomedan

* COLONIAL OFFICE NOTE.—This Act was passed by the Union Parliament "to consolidate and amend the Laws relating to Convict Prisons, Gaols, Reformatories and Industrial Schools, and for other purposes." It superseded the existing Natal and other Colonial legislation. The text of Section 13 (1) is as follows:—

"13. (1) The Governor-General may establish local gaols to serve one or more districts for the detention, confinement, and treatment of persons liable to detention in custody, whether under sentence of court, or prior to sentence, or otherwise."

marriages. I should be glad if you would inform Mr. Gabru that I have received these resolutions, but that I presume he has since learned that the alleged remarks attributed in the Press to General Smuts, to which objection is taken, have been emphatically repudiated by him.

I have, &c.,

L. HARCOURT.

No. 51.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 4.9 p.m., 20th November, 1913.)

TELEGRAM.

(Extract.)

You may think it right to make statement. Allegations of shooting, flogging, coercing Indians to work, are absolutely false.

No. 52.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 6.46 p.m., 20th November, 1913.)

TELEGRAM.

[Answered by No. 53.]

I have to-day received return of sentences on Indian strikers in Newcastle and Dundee Districts about the beginning of strike up to yesterday. Figures, except where otherwise stated, presumably include committals to district gaols as well as to compound out-stations.

Newcastle District: total sentenced 299, of whom 91 indentured and 208 unindentured. To come up for sentence: 127 indentured and 84 unindentured. Withdrawn: 5 indentured, 20 unindentured.

Dundee District: total sentenced 169; to come for sentence 41; withdrawn 154.

Ratio of indentured and unindentured in Dundee District not stated.

Particulars of sentences are as follows:—£10 or three months, Newcastle 1. £5 or six months, Newcastle 127. £5 or thirty days, Dundee 1. £5 or three months, Newcastle 35. £3 or two months, Newcastle 37. £3 or one month, Newcastle 1. £2 or one month, Newcastle 2. £1 or fourteen days, Newcastle 1, Dundee 1. Ten shillings or seven days, Newcastle 8, Dundee 1. £5, Dundee 5. £1, Newcastle 1. Corporal punishment, Newcastle 2, juveniles. Thirty days, Newcastle 1. Twenty-one days, Newcastle 1. Fourteen days, Newcastle 2. Seven days, Newcastle 79, Dundee 120, of whom 21 were released after serving two days, and 86 after serving one day.

Strikers committed to out-stations, Newcastle District, Ballengeich 172. Dundee District, Hattingh Spruit 2. Natal Navigation, No. 2, 11, Glencoe 86 "released," 20 "sentence deferred"; Natal Navigation, No. 1, 8 "sentence deferred"; Burnside 13 "sentence deferred."

Apparently in Dundee District strikers have been committed to only five out of the ten compounds declared as out-stations; in only three have sentences actually been served, and in only two have more than two days been served by thirteen prisoners in all.

As Magistrate, Dundee, on 17th November reported that all Indian passive resisters at mines in his district had resumed work, and that everything was quiet, policy adopted seems to have been successful in restoring orderly conditions there without infliction of any serious hardship.—GLADSTONE.

No. 53.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

(Sent 4.5 p.m., 21st November, 1913.)

TELEGRAM.

[Answered by No. 57.]

Your telegram 20th November.* Sentences of seven days were, I presume, imposed under Section 35, Law 25 of 1891.† What were charges in other cases with heavier penalties?—HARCOURT.

No. 54.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 25 November, 1913.)

Governor-General's Office, Pretoria.

5 November, 1913.

SIR,

WITH reference to my despatch of the 23rd October,‡ I have the honour to transmit to you, herewith, a copy of a minute from my Ministers commenting on the resolutions passed by the meeting of the Hamidia Islamic Society at Vrededorp on the 19th October, on the subject of Muhammadan marriages.

2. I also enclose a copy of the statement§ published in the Press to which Ministers refer.

I have, &c.,

GLADSTONE,

Governor-General.

Enclosure 1 in No. 54.

MINISTERS to GOVERNOR-GENERAL.

(Minute No. 1038.)

Prime Minister's Office, Pretoria,

31st October, 1913.

With reference to His Excellency the Governor-General's minute, No. 15/495, of 23rd instant, forwarding a copy of a letter from Mr. A. J. Gabru, with enclosures, relative to resolutions passed at a meeting of the Hamidia Islamic Society at Vrededorp, together with a copy of the reply which has been sent, Ministers desire to remark, with regard to the references to Mahomedan marriages and divorce alleged to have been made by General Smuts, Minister of Finance, that His Excellency has doubtless noticed that the Press has published a statement in which the Minister denies the alleged interview and the statements attributed to him.

LOUIS BOTHA.

No. 55.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 25 November, 1913.)

(Extract.)

Governor-General's Office, Pretoria, 6 November, 1913.

In continuation of my despatch of the 30th ultimo,|| I have the honour to enclose a further batch of press extracts, with reference mainly to the march of Indian strikers from the Natal coalfields towards the Transvaal frontier.

You will observe that Mr. Gandhi appears to be disconcerted by the inaction of the Government, and to have made representations to the effect that it was their

Department of the Interior (Enclosure No. 7), wherein an offer of mediation by that gentleman was politely declined.

The references to the Indian question in the speech delivered by Sir Thomas Watt at Kimberley on the 31st ultimo (Enclosure No. 8) will be read with interest, as also will the following extract from a speech delivered by the Prime Minister on the 1st instant at Nylstroom, as reported in the Johannesburg "Star" of that evening:—

"General Botha, in reply, said he was sure there was only one road to be followed in dealing with the Asiatic question, and that was the right road. He hoped people not living in South Africa would realise that their attitude in regard to the Asiatic was not prompted by a desire to get rid of Asiatics, but was prompted by principle. In this country they had coloured races to deal with and they did not want to have the position complicated any further. Their sole aim was to keep the position pure and clean. To-day he understood the Asiatics would undertake a great march from Newcastle to Volksrust. He hoped these people would accept better advice than they were doing to-day. General Smuts had recently made a statement as to what had taken place when Mr. Gokhale was here. Mr. Gokhale had replied and made a different explanation of what occurred. He (General Botha) wished to state that he was present at the interview with Mr. Gokhale. It took place in his (General Botha's) office, and the others present were General Smuts, Mr. Fischer, and Mr. Gokhale. He only wished to say that he agreed with and endorsed every word spoken by General Smuts in regard to that interview and in regard to what took place. 'At any rate,' General Botha concluded, 'we shall do nothing by which your rights will suffer.'"

It will be observed that General Botha confirms the denial given by General Smuts to the statement that the repeal of the £3 tax was definitely promised to Mr. Gokhale.

Enclosure 1 in No. 55.

EXTRACT from "RAND DAILY MAIL" of October 31st, 1913.

THE INDIAN TROUBLE: INVASION OF THE TRANSVAAL: TWO HUNDRED SEEKING ARREST.

A telegram was received yesterday at the Johannesburg headquarters of the Indian movement from Mr. Kallenbach, who is now in Newcastle in connection with the strike development, announcing that Mr. Gandhi and over two hundred men, women, and children, chiefly from the Ballanguich Colliery, set out on Wednesday on a march to Volksrust.

Yesterday a telegram was received from Mr. Gandhi, from Ingogo, announcing that the marchers had spent the night on the veld. They expected to reach Volksrust some time last evening.

The object of the invasion is to court arrest, and Mr. Gandhi explains that in no sense of the term is it an attempt to break down the Provincial boundaries.

Seven more Indian women have left Johannesburg for Newcastle, to take the place of those who have been arrested, their mission being to explain the passive resistance movement to the strikers.

Enclosure 2 in No. 55.

EXTRACT from "TRANSVAAL LEADER" of October 31st, 1913.

NATAL INDIANS AND THE POLL-TAX: TELEGRAM TO GENERAL SMUTS.

Durban, Thursday.

Mr. Gandhi has sent the following telegram to the Minister for the Interior:—"Have read Government's reply Natal Collieries Association. Beg to draw Minister's attention to fact that promise to Gokhale mentioned in Cachalia's letter, also my letter September 28, and no repudiation then made. Repeal of tax, though only now made matter of passive resistance, certainly not afterthought, as could be proved from documentary evidence in possession of Government. Have repeatedly stated Indian employees under indenture not being brought out for other points of passive resistance. Independent Natal Indians certainly fighting on general grounds of marriage, South African-born Indians to enter Cape, Immigration Act, and Licensing Act, questions which affect Natal infinitely more than any other Province. Government cannot complain of strike, seeing ample notice was given. In any case, respectfully ask Minister not treat strike as threat, but emphatic expression of intense feeling against tax. Hundreds of poor, helpless, and comparatively ignorant people will not listen to fancied or

Ministers to redeem their pledge in the next session of Parliament, for the sake of the good name of the European population; also protesting against General Smuts's statement that had not the £3 tax question been brought forward, Natal Indians would not have supported Mr. Gandhi's demands, and further protesting against the forcible vaccination of Indian women passive resisters at the Newcastle gaol.

Enclosure 4 in No. 55.

EXTRACT from "TRANSVAAL LEADER" of November 4th, 1913.

INDIAN PASSIVE RESISTERS: MR. GANDHI AND THE AUTHORITIES.

The following letter has been addressed by Mr. Gandhi to the Immigration Officer, Pretoria:—

SIR,

I UNDERSTAND that all passive resisters courting arrest at the Transvaal border invariably receive three days' notice to appeal, although they declare that they do not wish to appeal, and that then they are allowed to roam about as they please. As you are aware, it is not the desire of the passive resisters to have any Indian entering the Transvaal for settlement, unless he is a lawful resident. As it is not possible to ensure that every Indian crossing the border is a passive resister without any idea of illicitly remaining there, it is very necessary that the men under notice should be under complete detention, as used to be the practice in 1908. In my humble opinion, the Act does not require the warning about to be given in all circumstances. I therefore suggest that the passive resisters be taken into custody at once and housed and fed pending trial, whether the warning about appeal is given or otherwise.

Your urgent attention is requested, as men in large numbers are likely to cross the border, and I am most anxious to provide, so far as lies in my power, against any of them stealing into the Transvaal.

If you desire to wire to me, telegrams addressed "Gandhi," Charlestown, would reach me, at least for a day or two.

I have the honour, &c.,

M. K. GANDHI.

The Immigration Officer,
Pretoria.

The following letter has been addressed to the Secretary for Justice, Pretoria, by Mr. Gandhi:—

SIR,

WITH reference to the Indian passive resistance that is at present going on in the Union, and to the strike of Indian miners in connection therewith, I have the honour to inform you that over 207 men and women have surrendered themselves for arrest on a warning from the Natal Police, but, as the Government have no accommodation for them and facility for feeding them, they are being fed and housed by the Indian Committee here at Government expense. The majority were arrested yesterday, but no transport has been yet provided. There is a large number of women and children, and it is not possible for them to march back to Newcastle on foot, nor are the men in a fit condition to walk. Over 60 men, though miners, are still unarrested. Nearly 600 are coming in before to-night. I do not know whether they are to be arrested or not. But I venture to suggest that these men and women should be dealt with at once, assuming that the Government do wish to arrest them. If they are not arrested, I beg to state that they will proceed with their march into the Transvaal, an event which I am most anxious to avoid. I have ascertained from the officer at Volksrust that he has no instructions about arresting such batches, and I may add that, even when such men are arrested, they are not kept under custody pending trial. I write this letter, as it is the desire of passive resisters to guard in every way they can against the surreptitious entry of a single Indian. I beg to invite your urgent attention to the matter, as it may be necessary for me to march further at once. Telegrams addressed "Gandhi," Charlestown, will find me to-morrow (Saturday).

I have the honour, &c.,

M. K. GANDHI.

The Secretary for Justice,
Pretoria.

Enclosure 7 in No. 55.

EXTRACT from "TRANSVAAL LEADER" of October 31st, 1913.

INDIAN RESISTANCE: MEDIATION PROPOSAL: CORRESPONDENCE WITH THE GOVERNMENT.

We have received the following copies of correspondence:—

SIR,

My Committee hoped that we had seen the last of the trouble with the provision settlement of 1911, but, after having studied that settlement and the Immigration Act passed during the last session of Parliament, and after having carefully considered the other matters in issue, my Committee has come to the conclusion that the Indian community have been left no alternative save to revive the struggle. It is commensurate cause that the Immigration Act, which was intended to give legislative effect to the terms of the provisional settlement, was not to contain any racial differentiation, and was not to disturb the existing rights of British Indians. In both respects the Act appears not to comply with these conditions. My Committee need not repeat the claims of the Indian community, as they are set forth in the letter of Mr. Cachalia, the chairman of the British Indian Association, but as the question of the annual tax imposed upon a certain class of ex-indentured Indians—men, women and children—did not form part of the settlement of 1911, my Committee feels that it may be desirable to place on record its conviction that the Indians are fully justified in calling for its repeal on the ground of simple justice, and they are strengthened in this conviction by the promise given to the Honourable Mr. Gokhale during his visit to South Africa. This promise was referred to by the Right Honourable Lord Ampthill, in his speech recently delivered in the House of Lords, in the following terms:—

The Ministers in South Africa definitely promised Mr. Gokhale that this poll-tax should be repealed, and Ministers told the Governor-General that they had given him this promise.

My Committee regards the tax as immoral and indefensible, and considers that it should be removed at the earliest possible moment.

My Committee trusts that the Government will concede the just demands of the Indian community, and will give an assurance of its intention to introduce legislation as far as it may be necessary, to give the desired relief.

My Committee is quite sure that neither the Government nor the citizens of the Union can view without serious anxiety the revival of this passive resistance movement, involving as it does the imprisonment of men and women who are otherwise known to be the most inoffensive and law-abiding residents within the Union.

My Committee has no desire to increase the difficulties of the Government, but rather to aid the Administration to come to an understanding with the Indian people, and to that end ventures to offer its services as mediator between the Government and the Indian community; its only aim being to promote peace founded upon justice, and to serve the best interests of the State and of the Empire, of which this State is a part.

I have the honour, &c.,

WM. HOSKEN,
Chairman.

The Honourable the Minister of the Interior,
Pretoria.

SIR,

Pretoria, 25th October, 1913.

I AM directed by the Minister of the Interior to acknowledge the receipt of your letter of the 15th instant, in which you, as chairman of an European Committee formed in connection with the Indian passive resistance movement, offer the services of the committee as mediator between the Government and the Indian community to settle points of difference which have arisen in connection with the Immigration Regulation Act, and, in reply, while thanking you for your kind offer, to express the regret of General Smuts that the Government are not able to avail themselves of it.

I have the honour, &c.,

E. M. GORGES,

Secretary for the Interior.

Wm. Hosken, Esq.,
Johannesburg.

Enclosure 8 in No. 55.

EXTRACT from "TRANSVAAL LEADER" of November 1st, 1913.

SIR THOMAS WATT AT KIMBERLEY.

IMMIGRATION AND THE INDIAN TROUBLE.

Kimberley, Friday.

Sir Thomas Watt, Minister of Posts and Telegraphs, addressed a public meeting in the City Hall this evening. On the subject of immigration, he said it had been assumed that the Government's policy was to settle on the land all the indigents of the country, especially all the poor Dutch families who had drifted into the towns, before attracting the British settlers. That policy existed only in the heated imagination of the critics. Since Union 1,528 men had been allotted land by the Government, and of these only 99 were indigents. Alluding to the Indian strike in Natal, Sir Thomas Watt said that Mr. Gandhi had tried the passive resistance movement in connection with other grievances; but, as this failed, he suddenly changed his mind and had been imposed—not for revenue, but as a matter

Watt, "can submit to be dictated to in this way, and if the Government were weak enough to make such a promise Parliament would repudiate it. If the Indians are successful, the next agitation will probably be from the natives here and on the Witwatersrand for the removal of all taxes—hut tax, poll tax, pass fees, &c.; otherwise they may threaten to strike. The next step would be the brushing aside of the Constitution and all law and order, and the establishment of mob rule. It is absurd to contemplate such a thing at the dictation of a few thousand Indians, who are so well treated in Natal under the existing conditions that nothing will induce them to return to their own country. The Government has made ample provision for the protection of life and property, and if the Indians prefer to remain on strike the mines will probably manage to carry on with native labour, and the strikers will eventually be the main sufferers." Addressing himself to the subject of racialism, Sir Thomas Watt referred to a recent speech at the Transvaal Unionist Congress, where a delegate spoke of Dutch members of the Provincial Council as "brainless rotters." He was ashamed to think that the man who used the words was a Britisher, and hoped that, on reflection, that man had gone into mourning and put on sackcloth and ashes for his indiscretion. What he (the speaker) referred to was not only most insulting to a great race and a gross breach of good manners and etiquette, but a wilful and grotesque untruth. The most painful part of the incident was that neither the chairman nor any of the 200 delegates rebuked the speaker, and even Sir Percy Fitzpatrick to some extent condoned the language, because he referred to Dutch members of the Transvaal Provincial Council as dummies. He begged his Unionist friends to moderate their language and be as courteous as their opponents were, remembering that such expressions embittered racial feeling and tended to keep the races in two streams. The speaker defended General Botha against the criticisms that he had sacrificed the sacred rights of his own people. If they had the active support of the moderate men of both races, they would emerge from all racial, industrial, and political troubles a healthy, robust, and prosperous dominion, worthy of a place as one of the co-partners of the British Empire.

Enclosure 9 in No. 55.

EXTRACT FROM "THE NATAL WITNESS" of November 4th, 1913.

THE £3 TAX: WHY IT SHOULD BE REPEALED: ITS PURPOSE GONE.

SIR,

As one who took an active part in securing the passage of the legislation which imposed the £3 tax on Indians, may I be permitted to say a few words at this juncture?

When the tax was imposed, many of us felt that the growing danger of flooding Natal with Indians, consequent upon the importation of cheap labour for the sugar estates, required drastic action.

On the one hand there was strong opposition to the continuance of a policy which was full of danger to the future well-being of the Colony, while on the other hand the interests of the particular industry required consideration. The opponents of Indian labour argued that most of the Indians brought here as labourers remained in the country after the expiry of their indentures, and became permanent settlers, to the injury of the country. In the end it was decided to impose upon those so remaining a tax which, it was thought, would induce them to return to India.

Since the establishment of Union, Indian immigration has ceased, thanks to General Botha, and there is therefore now no need for the tax.

It is now pressed for, by the very men who first opposed it, on the ground that it tends to compel Indians remaining in the country to re-indenture. That was not the object of the tax. Its object was to induce Indians to return to India, and in any case the reason now given is not a worthy one.

The occasion for the tax having ceased to exist, the tax should be repealed.

Nor ought we to lose sight of the serious addition to the difficulties of the Imperial Government which its retention involves. England's rule in India is beset with the gravest difficulties, to which loyal British subjects should not add, especially just now. In this connection it would be well for some to read an article on the subject in the October number of the "Nineteenth Century."

Yours, &c.,
F. S. TATHAM.

No. 56.

LONDON ALL-INDIA MOSLEM LEAGUE to COLONIAL OFFICE.

(Received 26 November, 1913.)

[Answered by No. 58.]

SIR,

41, Sloane Street, S.W., 25th November, 1913.

I AM directed by the Committee of the London All-India Moslem League again most respectfully to invite the attention of the Right Honourable the Secretary of

affairs in South Africa, which no citizen of the Empire can help viewing with sorrow and grave anxiety. But they think they are entitled to lay special emphasis on the moderation and self-restraint with which the Indian leaders in South Africa have so far prosecuted their endeavours to obtain from the Union Government freedom from vexatious, not to say cruel and harassing, differential treatment virtually amounting to persecution, and to ensure for themselves and their fellow-countrymen a tolerable existence in the country of their adoption which forms a part of the British Empire. All their efforts in this direction have been met with repression, prosecution, and convictions under laws framed with the more or less avowed object of either driving the British Indians out of certain parts of South Africa or of reducing them virtually to a condition of serfdom.

2. As British subjects the British Indians in every part of His Majesty's dominions are justified in expecting for their fellow countrymen in South Africa enjoyment of at least the elementary rights of British citizenship. Out of regard for local prejudices the British Indians in South Africa have refrained from seeking some of the privileges of Imperial citizenship, but what they demand, and what the Committee conceive they have a right to demand, is just, equitable, and humane treatment.

3. Had similar treatment been meted out to any section of His Majesty's subjects, English or Indian, in any foreign State, we are certain His Majesty's Government would have at once interfered, and that peremptorily, to put a stop to it. It is more than anomalous that such harsh treatment should be permitted or be allowed to pass in silence in British Colonies which enjoy the protection of the British Empire.

4. The Committee venture most respectfully to appeal to the Right Honourable the Secretary of State to urge on the Union Government the necessity for the immediate introduction of remedial and ameliorative measures and to direct an investigation of the British Indian grievances by an independent and representative body.

I am, &c.,

G. M. EBRAHIM,

Hon. Secretary.

No. 57.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 5.49 p.m., 26th November, 1913.)

TELEGRAM.

Your telegram 21st November.* Indian sentences.

Magistrate, Dundee, reports that sentences of seven days were imposed under Section 35, Law 25 of 1891. Heavier sentences on indentured Indians were imposed under Section 3, Chapter 4, Ordinance 2 of 1850, except one case tried under Section 36, Law 25 of 1891, for being grossly insolent to employer.

In Newcastle District unindentured Indians were sentenced under Section 3, Chapter 4, Ordinance 2 of 1850, coupled with Section 25, Act 22 of 1896, except in case of juveniles, who were sentenced under Act 23 of 1909. One unindentured Indian was sentenced under Section 2, Chapter 5, Ordinance 2 of 1850. Indentured Indians were sentenced under Section 31 and 35 of Law 25 of 1891.

It appears that Magistrate, Newcastle, sentenced 127 unindentured Indians to fines of £5, or 6 months imprisonment, for contravening Section 3, Chapter 4, Ordinance 2 of 1850, coupled with Section 25, Act 22 of 1896, and as under Section 24, Act 22 of 1896, maximum penalty is three months' imprisonment with hard labour, steps are being taken to remit excess sentences. I am advised that the other sentences are in order, and that where they do not appear to be in accordance with various laws they are covered by Sections 24 and 25 of Act 22 of 1896. The two juveniles who, as reported in my telegram of the 20th November,† were sentenced to corporal punishment, received sentences of seven strokes under Act 23 of 1909. In addition, four juveniles, who were omitted from return previously furnished, received sentences of ten strokes. Six juveniles in all, therefore, received sentences of corporal punishment. *Continued.*

COLONIAL OFFICE to THE ALL-INDIA MOSLEM LEAGUE.

SIR,

Downing Street, 29th November, 1913.

I AM directed by Mr. Secretary Harcourt to acknowledge the receipt of your letter of the 24th instant* in which the Committee of the London All-India Moslem League call attention to the gravity of the situation which has arisen in South Africa, and appeal to the Secretary of State to urge on the Union Government the necessity for the immediate introduction of remedial measures, and to direct an independent investigation of the British Indian grievances. I am to say in reply, that the Committee do not appear to be fully and accurately informed as to the circumstances of the situation and that the open defiance of the law by Indians in South Africa seriously embarrasses the Secretary of State in the continuance of his representations to and consultation with the Government of the Union of South Africa.

I am, &c.,

JOHN ANDERSON.

* No. 56.

APPENDIX I.

NATAL ACT 17 OF 1895.

[No. 17, 1895.]

WALTER HELY-HUTCHINSON,
Governor.

Act, "to amend the Indian Immigration Law, 1891."

Whereas it is expedient to amend the Indian Immigration Law, 1891:

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. This Act may be cited as the "Indian Immigration Amendment Act, 1895," and shall be read and construed together with the Indian Immigration Law, 1891, as one Act.

2. From and after the date when this Act shall take effect, the indentures to be signed by Indian Immigrants as provided by Schedules B and C of the Indian Immigration Law 1891, referred to in Section 11 of the said Law, shall contain a covenant by the Indian Immigrants in words as follows:—

"And we further agree that, after the expiration or other determination of this contract, we shall either return to India or remain in Natal under indentures to be from time to time entered into: Provided that each term of new indentured service shall be for two years. And provided further, that the rate of wages for each year of indentured service after that provided by this contract shall be 16s. per month for the first year, 17s. per month for the second year, 18s. per month for the third year, 19s. per month for the fourth year, and 20s. per month for the fifth and each succeeding year."

3. Every Indian desiring to return to India on the expiry of the first or any subsequent period of his service under any contract of indenture or re-indenture entered into under the Laws for the time being in force shall be provided by the Indian Immigration Trust Board with a free passage to India.

4. Any Indian Immigrant who may have entered into the covenant set out in Section 2 of this Act shall be at liberty, subject to the approval of the Protector of Indian Immigrants, to choose the employer to whom he shall be indentured after his first term of service, and for the purpose of making such choice the Indian Immigrant shall be entitled to a pass for one month, to be issued by his last Employer, or should the Employer refuse such pass, then by the Magistrate of the District.

5. During all the periods of re-indenture each Indian Immigrant entering into such further indenture shall have all the rights and privileges which he had during his first term of indenture.

6. Every indentured Indian who shall have entered into the covenant set out in Section 2 of this Act and who shall fail, neglect, or refuse to return to India or to become re-indentured in Natal shall take out year by year a pass or licence to remain in the Colony to be issued by the Magistrate of his District, and shall pay for such pass or licence a yearly sum of Three Pounds Sterling, which may be recovered by summary process by any Clerk of the Peace or other officer appointed to get in such licence money.

7. The duty of causing Indian immigrants on arrival to be landed, conveyed to proper quarters, and provided with proper and sufficient food and clothing in terms of Section 15 of the Indian Immigration Law, 1891, shall devolve upon the Indian Immigration Trust Board, and shall be discharged to the satisfaction of the Protector.

8. The duties of the Protector of Indian Immigrants and of any Deputy or officer of his Department, additional to the duties imposed by any law, and the manner in which such duties are to be discharged, may be defined by the Governor in Council.

9. The returns mentioned in Sections 49 and 96 of the Indian Immigration Law, 1891, shall be sent to the Indian Immigration Trust Board instead of the Protector of Immigrants, and the said Board shall have all the powers of the Protector for the purpose of enforcing such returns.

10. The contributions by employers of Indian immigrants under Section 50 of the Immigration Law, 1891, shall be payable to and recoverable by the Indian Immigration Trust Board.

11. The appointment of a Medical Board under Section 52 of the Indian Immigration Trust Law, 1891, shall be made by the Indian Immigration Trust Board, anything in the said Section 52 to the contrary notwithstanding.

12. Licences to leave the Colony under Sections 90, 91, 99, and 100 of the Indian Immigration Trust Law, 1891, shall not be granted without the sanction or approval of the Indian Immigration Trust Board, and for the purposes of the said Sections 99 and 100 the said Board is substituted for the Protector.

13. A renewed indenture made under the provisions of Section 107 of Law No. 25, 1891, may be signed before the Protector or Deputy Protector of Indian Immigrants, or before any Magistrate.

14. The Indian Immigration Trust Board may so adjust the annual payments to be made under Clause 18 of Law No. 25, 1891, by the employers of indentured Indian Immigrants that the successive employers of Indians under original indentures or renewed indentures may be made to contribute to the cost to which the Board may be put in procuring immigrants from India.

15. The consent of the Governor shall not be needed to any increase or decrease in the annual payments on indentured Indians decided on by the Board, anything in Clause 12 of

Short title of Act. Joint construction with Law 25, 1891.

Covenant to be inserted in indentures under Law 25, 1891.

Return to India or renewal of indentures.

Free passage to India.

Choice of employer.

Continuance of privilege during re-indenture.

Indian failing to return or re-indenture to take out a pass.

Landing, &c., of Immigrants to be a duty of the Board.

Duties of Protector may be defined.

Returns to be furnished to Board.

Recovery of employers' contributions by the Board.

Medical Board to be appointed by the Board.

Licences to leave Colony to be approved by the Board.

Signature of renewed indentures.

Adjustment by Board of employers' payments.

Governor's consent thereto not needed.

Amendment of sections 106 to 109 of Law No. 25, 1891.
 Repeal of sections.
 Amendment of sections 2 to 4 of Law No. 25, 1891.
 Commencement of Act.

17. Sections 106, 107, 108, and 109 of Law No. 25, 1891, shall not apply to Indians introduced into Natal under contracts of indenture made in pursuance of this Act.
 18. Sections 110, 111, and 114 of Law No. 25, 1891, are hereby repealed.
 19. The words "from and out of the funds of the Indian Immigration Trust Board of Natal" occurring in Sections 2, 3, and 4 of Law No. 25, 1891, shall be expunged.
 20. This Act shall commence and take effect from and after such date as shall be fixed by Proclamation in the *Natal Government Gazette*.

Given at Pietermaritzburg, Natal, this Eighth day of August, 1895.
 By command of His Excellency the Governor,

JOHN ROBINSON,
 Colonial Secretary.

NATAL ACT 19 OF 1910.

[No. 19, 1910.]

METHUEN,
 Governor.

ACT

"To amend the Indian Immigration Act No. 17, 1895, and Act No. 2, 1903."
 BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

- Notwithstanding the provisions of Section 6 of Act No. 17, 1895, it shall be at the discretion of the Magistrate of the Division in which the woman resides to relieve any Indian woman from payment of licence money upon the grounds of ill-health, old age, or for other just cause.
- It shall be lawful for the Indian Immigration Trust Board to establish a bureau for the purpose of registering unemployed Indian labourers within the Colony of Natal.
- The payment of arrears of licence money due, under Act No. 17, 1895, by any Indian shall be suspended during the period of a reindenture or contract of service for a term of not less than two years, and in the event of his return to India at the expiration of such contract or indenture payment of arrears shall be waived.

Given at Pietermaritzburg, Natal, this Fourteenth day of February, 1910.
 By command of His Excellency the Governor,

THOS. F. CARTER,
 for Colonial Secretary.

APPENDIX II.

Provisions of Natal Statutes referred to in Nos. 53 and 57.

ORDINANCE No. 2 OF 1850.

Section 3. Chapter 4.

(As amended by Act 13 of 1898.)

On complaint preferred, and proof made, before any Resident Magistrate, having jurisdiction over the parties, that any servant or apprentice has refused or neglected to perform his stipulated work, or that he has performed it negligently or improperly, or that, by negligence, or other improper conduct, he has injured the property of his master, entrusted to his care, or that he has behaved to his master with violence or insolence, or that he has been guilty of scandalous immorality, or of drunkenness, desertion, or other gross misconduct, the Resident Magistrate may, in his discretion, adjudge the servant or apprentice to any punishment by fine, not exceeding five pounds.

Section 2. Chapter 5.

2. Any person who shall directly or indirectly by the offer of higher wages, or greater benefits, or otherwise, induce any servant or apprentice to leave his service shall, on conviction thereof, before any Resident Magistrate, incur and be liable to a fine not exceeding ten pounds; and, in default of payment, to imprisonment, with or without hard labour, for any period not exceeding three months.

LAW No. 25 OF 1891.

Section 31.

It shall be lawful for the Protector of Indian Immigrants or any Magistrate or Justice of the Peace or any police constable to stop any Indian Immigrant, wherever he may find him, and also for the owner or occupier of the conveyance in which he is travelling, to detain him, and to take him to the nearest Magistrate or Justice of the Peace, and to produce him before him, and to answer to his questions, and to give him such assistance as may be required, and to take such other steps as may be necessary for the purpose of bringing him before the Magistrate or Justice of the Peace, and to take him to the nearest Magistrate or Justice of the Peace, and to produce him before him, and to answer to his questions, and to give him such assistance as may be required, and to take such other steps as may be necessary for the purpose of bringing him before the Magistrate or Justice of the Peace.

Punishment for neglect or improper conduct.

Enticing servants.

Immigrant may be stopped and required to produce

Immigrant being so required shall fail to produce his certificate of discharge, or a written ticket of leave signed by his master or by some person duly authorised by him to whom his services may be due, save in the exceptional circumstances contemplated by the first proviso of the preceding section,* to take such Immigrant forthwith before the nearest Magistrate who shall forthwith enquire into the case. Unless such Immigrant shall satisfy such Magistrate that he has obtained his discharge or that he is absent from the estate or residence of the person in respect of whom his services shall be due with the leave in writing, of his master or the manager or other person in charge of such estate, then and in such case, for a first offence, such Immigrant shall be punishable by the Magistrate aforesaid by a fine not exceeding ten shillings or by imprisonment with hard labour for any term not exceeding seven days, and for a second offence, by imprisonment with hard labour for any term not exceeding fourteen days, and for every subsequent offence by imprisonment with hard labour for any term not exceeding thirty days. It shall be the duty of such Magistrate to communicate to the master or employer of any Immigrant so punished the fact of the imposition of a fine or of the committal to prison, with the date on which such fine was imposed or on which the term of imprisonment was awarded, and after payment of such fine or at the expiration of the term of imprisonment, should such master or employer not claim the Immigrant, the said Magistrate shall forward the Immigrant to his master or employer. The costs of such return shall be paid to the Magistrate by the master or employer who is hereby authorised to deduct the amount of such costs from the wages then due, or which thereafter become due to such Immigrant: Provided that it shall be lawful for the Magistrate, if he be unable to ascertain such master or employer, to forward the Immigrant to the Protector or Deputy Protector of Indian Immigrants for identification, and the total costs incurred in such return shall be paid by the master or employer who is hereby authorised to deduct the amount from the wages then due, or which may thereafter become due, to such Immigrant.

Section 35.

Any Indian Immigrant who, being in good health and able to work, shall absent himself from muster or roll-call without leave, or who shall neglect to perform any work which his employer, or person duly authorised by him, may reasonably order him to perform, or who shall, without just cause, wilfully disobey the orders of his employer or of any person duly authorised by him, shall be deemed to be guilty of misconduct and shall be punishable in addition to the forfeitures specified in the thirty-third section for unlawful absence from work, by the Magistrate of the division, wherein his place of service is situated, by imprisonment, with or without hard labour, for any term not exceeding seven days for the first offence, by imprisonment with hard labour for any term not exceeding fourteen days for the second offence, and for every subsequent offence by imprisonment with hard labour for any term not exceeding thirty days, with spare diet, if the Magistrate shall so adjudge, for any portion not exceeding one-third of such last-mentioned term of imprisonment.

Punishment for absence without leave from roll-call; neglect of work or disobedience.

Section 36.

Any Indian Immigrant who shall be grossly insolent to his employer, or who shall practise any fraud or deception in the performance of any work which he is bound to perform, or who shall, by negligence, or other improper conduct, lose, throw away, or damage the property of his employer, shall be punishable by the Magistrate of the division wherein his place of service is situated, by a fine not exceeding Five Pounds or by imprisonment with hard labour for any term not exceeding thirty days.

Punishment for gross insolence, fraud, or damage to employer's property.

ACT No. 22 OF 1896.

Section 24.

Whenever upon the return of a warrant issued under the provisions of the foregoing section for the levy of a fine or penalty it shall appear to a Magistrate that no sufficient goods or chattels of the offender can be found whereof to levy such fine or penalty within the Colony it shall be lawful for such Magistrate to issue his warrant for committing such offender to the common gaol to be imprisoned there, with or without hard labour, for any term not exceeding three months, unless such fine or penalty shall be sooner paid.

Imprisonment when warrant unsatisfied.

Section 25.

If it shall appear to a Magistrate, either by the confession of an offender or otherwise, that he hath not sufficient goods or chattels in the Colony whereof to levy a fine or penalty imposed without any alternative punishment, such Magistrate may, in his discretion, without issuing such warrant as is in the 23rd Section of this Act provided, order the offender to be imprisoned in like manner as if a warrant had been issued, and a return of *nulla bona* made thereon.

Imprisonment without levy.

Act No. 23 of 1909.

"To provide for boys being punished by whipping instead of imprisonment for minor offences."

Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. When any boy over the age of ten years and under the age of eighteen is convicted of any contravention of a by-law made under the powers given to town councils and local boards by Laws No. 19, 1872, and No. 11, 1881, and any Laws and Acts amending the same or of any contravention of a law or regulation punishable by imprisonment only, or by imprisonment in default of payment of a fine, and punishable by the court of a magistrate, the magistrate (or the Mayor in the case of a Mayoral Court) may, in his discretion, instead of sentencing such boy to imprisonment or to a fine with the alternative of imprisonment, sentence him to receive a private whipping of not more than twenty strokes with a rod or cane.

Given at Government House, Pietermaritzburg, this Fourteenth day of December, 1909.
By command of His Excellency the Governor,
C. O'GRADY GUBBINS,
Colonial Secretary.

Punishment
of boys over 10
and under 18
by whipping

